

18th December 1922]

#### IV

##### COMMUNICATIONS TO THE COUNCIL.

The SECRETARY laid on the table the \*return of officers in the non-gazetted service of the Government who held permanent appointments on Rs. 35 and upwards on 1st April 1922 (prescribed by G.O. No. 658, Public, dated 15th August 1922).

The SECRETARY laid on the table † proceedings of the twelfth meeting for 1922-23 of the Standing Finance Committee of the Madras Legislative Council held on the 18th November 1922.

The SECRETARY laid on the table the ‡ notification regarding the abolition of the Anantapur municipality under proviso (b) to section 5 (1) of the District Municipalities Act, 1920.

With reference to the answer given to question No. 94, asked at the meeting of the Legislative Council held on the 12th September 1922, the SECRETARY laid on the table a § statement showing the travelling allowances drawn by Superintending Engineers of circles during 1921-22.

#### V

##### THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922.

The hon. the RAJA OF PANAGAL:—"Mr. President, Sir, I beg to move that the Madras Hindu Religious Endowments Bill of 1922 be read in Council. The Bill, Sir, having been previously approved by the Governor-General in Council in its present form, was published in the *Fort St. George Gazette* in English and in the chief vernaculars of the Presidency. The comments on the Bill as have so far appeared both in the press and in private communications have been encouraging. At present, Sir, the Madras religious institutions are served by the Acts XX of 1863 and XIV of 1920. Of these Acts, the former is altogether out of date and too defective to give adequate scope for the successful management of religious endowments, and the latter though quite modern is too limited in its scope to remedy the defects of the former.

"This question of amending the Religious Endowments Act has been for a long time agitating the minds of the people of this Presidency, at any rate of the thinking section of the disinterested people of this Presidency. As early as 1870, it was recognized that the Act of 1863 utterly failed to attain its object. Ever since, the people have been anxious to introduce amendments to the Bill. The first attempt at legislation to amend the Bill was made by the late hon. Mr. Rama Ayyangar. He drafted a Bill in 1870 and the Bill was referred to the then Advocate-General, who, on examining the Bill, thought that the Bill was incomplete and did not remedy all the defects though it would improve the existing law. Thereupon, the Advocate-General was asked to prepare the outline of a fresh Bill and a committee was appointed with Sir William Robinson as President. The committee investigated the matter and drafted a Bill which was submitted in due course to this Government. This Government referred the Bill with the report and the connected papers to the Government of India who thought

\* Vide Appendix C on page 950 infra.

† Vide Appendix E on page 957 infra.

‡ Vide Appendix D on page 955 infra.

§ Vide Appendix F on page 957 infra.

[The Raja of Panagal]

[18th December 1922]

that the Bill was rather untimely. Later on another committee was appointed whose President was the hon. Mr. Sullivan. That committee too prepared a report which was submitted to the Government of India. On this occasion the Government of India were not willing to sanction the introduction of the Bill. They said they would prefer a Bill which was more limited in scope and less in conflict with the Act of 1863. Sir Muttuswami Ayyar Committee's Bill too met with more or less the same fate. More recently in 1903, an attempt was made by a member of the local Legislative Council, Mr. G. Srinivasa Rao of Madura, to introduce a Bill into the local Council with the object of making provision for the preparation of accounts by trusts as well as for the limitation of the tenure of office of the committee. That attempt too failed. Still later, my hon. friends, Mr. Govindaraghava Ayyar and Mr. Seshagiri Ayyar, prepared a draft Bill, but that also was not allowed to be introduced in this Council on the ground that at that time the Government of India were contemplating to introduce legislation on the matter into their Council.

"That, Sir, is a brief history of the attempts of this Government to introduce an amendment to the law regulating religious endowments. It is indeed a pity that these several attempts have proved infructuous, but I have no doubt that this failure on the part of this Government to get legislation introduced into this Council was due to the repeated refusals of the Government of India. The Government of India objected because they felt a sort of delicacy to interfere in matters religious and because they felt that, after all, they were different from the people for whom the Bill was really intended.

"Sir, although the several attempts made by this Government failed, we have the opinions of the most eminent men recorded in the files connected with this question and I must say I have had the opportunity to study these records and to have a Bill drafted by the committee appointed by the Government with the Raja of Ramnad as its President. I am now introducing the Bill and its provisions are explained in the notes appended to the Bill. Provision is made in the Bill for the diversion of funds for purposes for which the endowments were not originally intended. There is also provision for the constitution of regularly constituted committees with members whose tenure of office is limited to five years. According to the old Act the members used to be life members. This change is considered to be very desirable. There is also another provision enabling the trustees to contribute funds to the local bodies for necessary sanitary and other arrangements. Further, Sir, the committees are empowered not only to control the establishment of religious endowments but also to intervene in their internal administration wherever it is necessary. At the same time care is taken to allow long existing customs and usages to continue without any interference. These, Sir, are some of the changes that have been introduced in the Bill and it is expected that this measure which has been due for a long time and which embodies the considered opinions of most of the eminent men of this Presidency will meet the approval of the Members of this House. At the same time, Sir, I am aware that the Bill is not perfect. There may be many details which require a thorough examination and I assure hon. Members that, when the Bill is discussed in the Select Committee, all these details will be considered carefully and suggestions will be adopted wherever possible. With these few observations, I present the Bill for its first reading."



18th December 1922]

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—" I beg to second it."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Mr. President, Sir, it ought to be a matter of satisfaction to this House that after a long time we have a genuine attempt made to have the provisions of the Religious Endowments Act of 1863 modified so as to suit present conditions and meet that clamour of public opinion that there has been for a number of years to ensure the satisfactory management of the religious endowments of this Presidency. And I think that those who are responsible for this Bill deserve the thanks of this House for their having given their early attention to bring into the statute book a measure which will satisfy the needs of the religious endowments of this Presidency. Sir, it is a well known fact that so far as the modification of the Religious Endowments Act is concerned, the need is felt more keenly and more widely in the Presidency of Madras than possibly in any other Presidency in India. The result of having an All-India measure regarding religious endowments in this Presidency was that whenever a modification was suggested to that measure you had to consult the susceptibilities and possibly the prejudices not merely of the people of Madras but also of people elsewhere. And when the cry of 'religion in danger' is raised by interested persons, one can easily understand how attempts to bring about a modification in the original provisions will be thwarted. And now that this Government, this Presidency and this Legislature have a free hand in the matter of modification in respect of this measure, I am glad that the opportunity has been availed of for the purpose of introducing this measure.

"The brief recapitulation, which the hon. the Raja of Panagal has given us of the history of the attempts that have been made for the purpose of securing a modification of the original Act, will go to show how persistent have been the demands to bring about the needed modification. I wish therefore, Sir, with your permission, to confine myself on this occasion to merely indicating certain points in the Bill, as it stands, which, it appears to me, will require the very serious consideration of the Select Committee before the Bill is allowed to become law.

"In the first place, Sir, it will be found that this Bill suggests that, so far as the constitution of the committee which has to administer the religious endowments goes, there ought to be an element introduced into its composition which is solely due to the Government and that the Government should have the right of nominating to the committee members who will not exceed more than one-third of the total number of the committee. That, Sir, seems to me a retrograde step, particularly in the matter of religious endowments. As the House is aware, the previous committees which were formed under the Religious Endowments Act XX of 1863 were all composed of members who were elected and it has not been adequately explained why the Government should at all consider it necessary, at this late stage, to introduce into the committee an element which is solely the creation of the Government. The hon. the Raja of Panagal has not referred to it in his speech, but if we look into the notes which are appended to the Bill, we shall find that it is stated that it is to meet the needs of the minorities. Now, Sir, that is an argument with which we are familiar not merely in regard to this measure of legislation but with regard to other measures of legislation as well. But I am not able to understand why, so far as the religious endowments which are being

[Mr. L. A. Govindaraghava Ayyar] [18th December 1922]

conducted according to certain well-established usages are concerned, why when these endowments, which are being considered by this Bill, are endowments which are to be availed of by the whole Hindu population, there should be any necessity to think that there will be minorities whose interests have to be safeguarded. There is the same temple to which all of us may go; there are the same usages to which every one of us has to conform; and, so far as worship in the temple goes, I take it, there is no difference between the majority and minority; one would, therefore, have expected some fuller explanation before this very radical divergence from the previous measure was thought of and insisted upon. I, for one, Sir, would strongly object to the retention of that provision in the Bill.

"Another matter, to which also I think some importance has to be attached, and in respect of which no adequate explanation has so far been given, is this: it is stated that, after the present committees cease to exist as such, and before the elected committees come into existence in the manner suggested in the Bill, there ought to be the wedging in of committees whose members are to be appointed purely by the Government. Why exactly that should be so, I am not able to understand. If the argument is that there ought to be some time taken for the new order of things, indicated by this Bill, to be established, for the electoral rolls to be prepared, for the election to take place, and that, therefore, during that inter-regnum there ought to be some committees to administer the religious endowments, that may be easily provided for by the present committees who are allowed to continue for another three years; and within these three years, whatever necessary preliminary arrangements are required can be easily gone through. Why, therefore, you should have committees which are solely appointed by the Government, to intervene between the present committees and the new ones, I am not able to understand. But if the object be that the Government want, as it were, to give a lead in the matter and indicate to the electorate and to others what exactly should be the kind of composition that these committees should possess when once the people have it in their power to elect their members, the position is intelligible; but that position is altogether unsound, for so far as election of persons to the committees goes, I am sure there are people who have considerable experience in that direction. Perhaps, the trouble is that they have had too much experience of the committees. Under these circumstances it seems to me that it is altogether an unnecessary provision.

"Then, again, we find that institutions which are under the management of *mutts* are also brought within the purview of this Bill. I, for one, do not object to that course being adopted, but I should think that considerable caution is required in indicating what precisely shall be the limits within which the committees will be allowed to interfere with the management by the heads of these *mutts* of the institutions under their control.

"With respect to the diversion of funds, as the hon. the Raja of Panagal has pointed out, the opinion was strongly expressed in this Presidency that religious institutions which have more funds than are needed for their purposes must be enabled to utilize some of the surplus funds at their disposal for purposes not exactly the same as they were administering hitherto, but also for purposes which are akin to those that are within their purview and which will be highly beneficial to the people. I think it is one



18th December 1922] [Mr. L. A. Govindaraghava Ayyar]

of the most satisfactory features of this Bill that provision is made for such diversion of funds. But here again, Sir, one would like that somewhat more precise rules are laid down as to how these funds should be diverted. Very probably the reply will be that the matter is one which will come up for the consideration of the Select Committee or which will be more appropriately dealt with by means of rules which this Bill contemplates. If that is to be the reply, I have nothing to say against it.

"Then, Sir, it will be noticed that, so far as this Bill goes, there are certain provisions, particularly with respect to the taking away of the jurisdiction of the Advocate-General in the matter of giving sanctions, which seem to me to be very retrograde. As the House is aware, at present both the Collector and the Advocate-General have it in their power to give, in appropriate cases, sanction for the institution of suits which come within the purview of section 92 of the Code of Civil Procedure and which are commendably termed scheme suits. One of the provisions in the Bill is—I refer to clause 37 of the Bill—that sections 92 and 93 and rule 8 of Order I of the first Schedule of the Code of Civil Procedure shall have no application to cases which are covered by the Bill and, that without the sanction of the Collector, it must not be competent for any person interested in religious endowments to institute suits for the reliefs which are more specifically mentioned in clause 37 of the Bill. Why the Advocate-Generals' leave is dispensed with, or, rather, why it is prohibited from being given, I am not able to understand; nor do I find any enlightenment in the notes or in the Statement of Objects and Reasons. Now if the Government is going to appoint its own members for the purpose of forming these Committees which are to administer the religious endowments, I think it is a very salutary step that the Advocate-General should be given a free hand to give leave in appropriate cases for the institution of suits. It seems to me, Sir, that in matters where he has to use his own judicial discretion, the Advocate-General is less likely to be under the control or within the influence of the Government than the members of the committee or the Collector who is a direct subordinate of the Local Government. For that reason, Sir, if for nothing else, it seems to me that the retention of the provisions in the measure as we find it now in the statute book is desirable. Of course, with reference to drafting and with respect to certain minor points, it may be that this Bill is capable of improvement, but those are appropriately matters which are to be considered by the Select Committee. I, for one, welcome the introduction of this measure though I must say that I am not quite pleased with every one of the provisions of this Bill."

MR. R. SRINIVASA AYYANGAR :—"Mr. President, let me preface the few remarks that I am about to make on this Bill by conveying my warm and sincere congratulations to the hon. the Minister for introducing this Bill, which, in my opinion, rests on a democratic basis. If it has a religious side, it is not, I fear, without its material side as well. Within the allotted time at my disposal, it is not possible for me to present a detailed criticism of the various provisions of the Bill. But, in passing, I may refer to a few features of the Bill which seem to me to partake of a retrograde character. Hon. Members of this House are well aware of the fact that, when the Religious Endowments Act XX of 1863 was passed, the Government took great care to divest itself of all control over, and free itself from all responsibility for, religious institutions and endowments and that was the reason

[Mr. R. Srinivasa Ayyangar]

[18th December 1922]

why care was taken in enacting the old Act to deprive the Local Government of its power to nominate trustees for institutions or members for the committees. But after going through the provisions of this Bill, I am sorry to note, that under clause 37, the Local Government wants to retain the power of appointing members to the committees and also of exercising its jurisdiction, plenary or otherwise, over certain matters of detail. These clauses are clauses 6, 13, 14 and 22 of the Bill now before the House. So far as clause 6 is concerned, there is absolutely no reason why the Local Government should reserve to itself the right, or the privilege, of nominating any members to that body in whatsoever proportion it may be. Hon. Members of the House might be aware that until now the Government did not care to nominate anybody, but whenever a committee was found to be at fault with respect to the holding of an election or in respect to nomination of members, power was given to a district court in its ordinary original civil jurisdiction to call upon the committee to elect a member of its own, or the district court itself was invested with powers to nominate a person of its own choice. The reason, as observed by the Privy Council in one of the earlier cases, is not far to seek; because it is very wise to vest this power in a district judge who, being an officer on the spot, can be expected to be in touch with and to know the public feelings in the matter; and even if the Government wants that there should be some power of nomination, there is absolutely no reason why that power should not be vested in the district judge and why the Local Government, itself an Executive Government, should be anxious to retain this power within its grasp.

"Then turning to clause 13, the tenure of office of the president has been limited to one year. In practical working, I venture to submit that this period may cause serious hardship. There is no reason why it should not be extended to three years or such other period as may correspond to the period of membership of the officer concerned. Again, no provision has been made for the office of vice-president. I beg leave to draw the attention of the hon. the Minister to that omission and request him to see if he cannot see his way to introduce that provision as well.

"Then, turning to sub-clause 4 of clause 13, it is stated that pending the election of a president, the member who has served for the longest period shall exercise the functions of the president; and if any dispute arises as to which of the members has the longest period which will entitle him to be president, reference has to be made to the Local Government who shall determine which of the members shall exercise the functions of the president until a new president is elected.

"This is rather a circumlocutory procedure, and there is absolutely no reason why the committee should not be called upon to convene a special meeting and determine by drawing lots, which of the two competing members is qualified and why this procedure of making reference to the Local Government to settle this matter should be designed. Sub-clause (2) of clause 14 says: 'If such vacancy shall not be filled up within the time prescribed, the Local Government may appoint a person to the vacancy'. Wherever the term the 'Local Government' comes in I would substitute the words 'the district court of the locality'. I think, it is high time that in these days of decentralization, the Local Government should not have anything to do either with the matter of any appointment or with the matter of any reference. I find a curious provision that, in a case where the



18th December 1922] [Mr. R. Srinivasa Ayyangar]

trustee for the time being is removed or dismissed by the committee, power is given to the Local Government to interfere when an appeal is preferred thereto. Sub-clause (4) of clause 22 says: 'The order of the committee under sub-section (1) shall, when no appeal is preferred against it, be final; and when an appeal is preferred the order of the Local Government shall be final'. There is absolutely no reason why the Local Government should pose itself as the final authority for the purpose of interfering with or modifying the order of the committee. In its stead, I would substitute 'the member concerned may be given an opportunity to have the matter brought before a court of competent jurisdiction'.

"I am really very glad that the question of the levy of contributions has been placed on a statutory basis. So far as we in the South Arcot district are concerned, for some unknown reason—we tried to ransack the papers but we were not able to find out—we have been given 2 per cent of the *tasdeek* allowances. But the Bill goes a great way in strengthening our position by enabling us to levy a contribution not exceeding 3 per cent of the gross income. That provision of the Bill which I think is likely to provoke much discussion is clause 33 which deals with the diversion of the surplus funds for purposes unconnected with the endowment. I think that clause 33 has no place at all in this Bill, and I doubt very much, as a lawyer myself, if it is within the competence of the local legislature to divert into a channel any fund or any portion of a fund that might have been meant or ear-marked by the donor for a limited or particular purpose. If I were the donor, I for one would certainly refuse to allow any other person to interfere with any surplus that might be left after the object for which the fund had been established was fulfilled. I think it is a matter which is likely to create a great deal of opposition; for the funds required for general purposes must come from the general revenue and no portion of the surplus of any endowment should be utilized for them. Therefore it was that I began by saying that this Bill is not without its materialistic side.

"There is one other provision to which I would specially call the attention of the hon. the Minister. Sub-clause (2) of clause 23 says: 'The committee shall, in cases of dispute or doubt, determine whether a trustee is disqualified under sub-section (1) and its decision shall be final'. To give a kind of finality to the decision of the committee with respect to the question as to whether a trustee shall be deemed to have vacated his office by means of certain disqualifications is a position which is impossible to comprehend. Hon. Members are fully aware of the fact that there is no such restrictive provision either in the District Municipalities Act or in the Local Boards Act. In the event of a dispute in such cases the matter is disposed of by a reference to the District Judge. I should expect some such provision put in here instead of giving finality to the decision of the committee as in clause 23. Then again, so far as the strength is concerned, it is stated that the minimum is placed as 6 and the maximum as 12. On turning to the Statement of Objects and Reasons, I find in page 12 that in constituting committees the Government will keep in view the principle that committees should be on a territorial basis, the unit being ordinarily a district. Having in view the aims and the scope of the Bill, and having regard to the fact that all institutions getting an income of over Rs. 250 will be brought within the purview of this Bill, I venture to submit that hereafter it will be possible to conceive of at least 70 or 80 institutions in each taluk. Now let

[Mr. R. Srinivasa Ayyangar] [18th December 1922]

me try to illustrate my position. Formerly there were over 107 institutions under the South Arcot Devasthanam Committee. Forty institutions have passed out of our hands since that time. If you apply the provisions of this Bill our committee will have to exercise jurisdiction not over 70 but 700 institutions. Therefore, I would submit that instead of having the district as a unit it would be better to have a taluk or a revenue division as a unit, having regard also to the fact that the strength of the committee has been cut down to 12. It will be impossible in the very nature of things for one committee, however vigilant it may be, to exercise careful supervision over a large number of institutions. That is a matter which needs looking into. I am very glad that this Bill, shorn of some of its objectionable features, and deprived of some provisions against which criticisms may be directed, is likely to serve the object in view.

"There is one other point. This Bill will also bring within its scope places known as *patasalas* where religious instructions are now given. I was talking the other day respecting this Bill to a few persons who had founded *patasalas* and who were responsible for their upkeep even now, and they seemed to be opposed to the interference of these committees. All these matters require a great deal of tact and circumspection and a great deal of caution is also equally needed. Before we give legislative sanction to a measure of this kind, which, I must concede, contains very many excellent provisions, but also equally objectionable features, we must have time to consider the provisions in great detail. At present I do not see my way to oppose the Bill. I welcome the Bill so far as it meets my approval, reserving the right to oppose such measures as seem undesirable to me. I hope that a sufficiently strong and representative committee will be formed to subject the various provisions of the Bill to a detailed examination."

The RAJA OF RAMNAD:—"I must warmly congratulate the hon. the Minister for Local Self-Government for introducing this liberal and interesting measure to set right the defects which have existed for over a century in the administration of religious endowments. The first Act is, I presume, Regulation 7 of 1817, and next came the Act of 1863. Though various attempts have been made in various periods, no definite action has been taken till this year.

"Before I proceed to offer a few remarks on the various provisions of the Bill, I should like to say that the introduction of this Bill by a member of an aristocratic family is a direct challenge to the most unreasonable attack which we are accustomed to hear both from the public and the press that members of the aristocratic family, particularly the zamindars, are undemocratic in their outlook and conservative in their instincts. Here is a direct challenge to that statement, and I feel that even the most hostile critic in this Council, or elsewhere, will not deny him that appreciation which the Bill deserves. My position has been somewhat unique with reference to the administration of these institutions. Born a hereditary trustee, I continue to be the hereditary trustee of very many religious institutions, temples and choultries. As a member of the Rameswaram Devasthanam Committee I happen to be a member of the special constitution known as "the scheme". As a member of the Kumbakonam Devasthanam Committee I come under the direct application of Act XX of 1863. My experience though unique, has not been very agreeable. I have had several troubles and worries and the worst of them was in getting through the proceedings securing the quorum



18th December 1922] [The Raja of Ramnad]

for the meetings. I have had to travel from Ramnad to Kumbakonam and return after three days without getting the quorum. Under the provisions of the Regulations members are not allowed even travelling allowance.

"I agree with some of the critics who say that the Bill has not been before the public for a sufficiently long time; for, in my case, the time was very short owing to the breaches and floods. Though I agree that the time has been very short for the public to offer their criticisms, yet when I saw the Bill I welcomed it with a sigh of relief. Therefore, Mr. President, I would earnestly request the hon. the Minister to give us the assurance that, after the Bill is considered in the Select Committee, he will offer sufficient time to the public to present their remarks.

"With these observations I request permission to refer to the various provisions of the Bill. This Bill, unlike its predecessor, includes private trusts within its scope for the first time. No distinction has been made in this Bill between public and private trust. There is only a distinction made between non-hereditary and hereditary trusts. That is a very serious position and it requires considerable scrutiny before definite action is taken. For instance, there may be a private trust—I speak from my own experience: there is a temple within the four walls of my house—"

The hon. the RAJA OF PANAGAL:—"May I say, Sir, that any private trust does not come under the operation of the Bill?"

The RAJA OF RAMNAD:—"I am glad to have that assurance, Sir. So far as I can see there has been no attempt to have a list of private trusts made. There is no attempt in this Bill to investigate and ascertain which particular temple is private and which particular temple is not. If any such attempt is made, it will be all right. But, according to the definition, I thought that every temple which allowed the worship of outsiders could be called public. That requires further consideration. I only appeal to the hon. the Minister to have that matter carefully considered in the Select Committee.

"Coming to the constitution of the committees, I find that there is no provision made for depriving a member of his seat on the committee if he fails to attend a certain number of meetings consecutively. There are cases where members have not attended any meeting for all their life. As there is a provision in the Local Boards and the Municipal Acts depriving members who fail to attend a certain number of meetings of their seats, I think that a similar provision may be introduced in this Bill also.

"In the constitution of the committees, I think, it is not necessary that Government should have the power of nominating members. The reason given for reserving this power is that they wish to retain powers analogous to those found in the Local Boards and Municipal Acts. The provisions in those Acts are intended to secure representation of minorities. But the Devasthanam committees are to be composed only of Hindus. People of alien faith cannot come in. There may be no harm if Government nominates members to represent certain interests. But there is one danger with regard to this provision which I wish to place before this House. There are several classes of people who are denied admission into temples, rightly or wrongly. That is the custom and usage as admitted even by the highest tribunals in this country. Every Hindu is entitled to be in the committee and become a trustee but the Government is sure to be forced to nominate as members to the committee persons who are not generally admitted into the temples, and

[The Raja of Ramnad] [18th December 1922]

then what will be the position? I think that the matter is sufficiently clear and I need not dilate upon that. I think the hon. the Minister will be taking a very serious responsibility in this matter if this provision is retained. I, therefore, think that the Government had better not retain such powers. Owing to their so-called religious, social or sectarian neutrality it will be impossible for the Government not to yield to the wishes of the Hindu community to nominate one of them to a seat in the committee.

"The next question that we have to consider is about the desirability of the hereditary trustees becoming members of the committee. I think that hereditary trustees should not be debarred from becoming members of the committee. The president of the committee is given some powers of supervision and so forth over the trustees. It may be proper to say that the hereditary trustee should not be the president of a committee; but to say that he should have no place in the committee is not right. The difficulty of the hereditary trustee is this. He is a hereditary trustee not because he aspired to become one but because he was born in a particular family. The trusteeship is his birth-right. In the case of an outsider, the outsider has the option of being in the committee or becoming a trustee. But in the case of a hereditary trustee there is no such option. If we deny him a seat on the committee, we shall be excluding a class of people who are considered, on all hands, to be highly influential, wealthy and respectable. Further, if the committee should have any power over such trustees, then only the trustees should not have a right to be in the committee. As it is, the committee exercises no control over the trustees and, therefore, I request the hon. the Minister to consider this matter and relax this provision and allow the trustees also to enter into the committees either by election or by nomination.

"Under section 13 (4) Government have taken power to nominate one of the members of the committee as president under certain circumstances. The section says: 'If the longest period for which any member has served as such is the same for more than one member, the Local Government shall determine which of them should exercise the functions of president until a new president is elected'. I think that in such a case the privilege of choosing the president should be left to the committee itself and not given to the Government. The member who gets into the committee earlier can become the president automatically without Government nominating any one as they please. With regard to the appointment of president of the committee, I think, it will satisfy public opinion if instead of the power being taken by the Government, it is given to the courts. I would substitute 'commissioners' for 'courts'. But that is a matter which will be considered by the Select Committee and I, therefore, do not wish to give my opinion on it at present.

"There is one other provision to which I wish to refer. Section 21 deals with the salary to be paid to the non-hereditary trustee. I think that this is a retrograde step. In the case of the members of local bodies, municipalities and Legislative Councils, we do not pay them. In religious institutions, where people come out of love for their religion—religion being considered in this country as the greatest treasure—I do not think it is proper to introduce a system of payment to the trustees or members of the committees. We can find many people willing to serve either as members of the committees or as trustees without any payment. I do not see any necessity for paying people when we can secure proper persons willing to do honorary work of this nature.



18th December 1922]

[The Raja of Ramnad]

"With regard to the diversion of surplus funds, I think, the provisions are not definite. They do not say where such funds ought to be spent: whether in a particular area or anywhere in the presidency. As it is, the surplus funds of the Rameswaram Devasthanam may be spent in Ganjam, the funds belonging to a devasthanam in Ganjam may be spent in South Kanara, and the surplus funds of all the institutions may be spent on the Madras University. There is no provision limiting the expenditure to any particular area or district. There is already a serious apprehension in the minds of the trustees of the temples that all their money will be taken away. I am afraid such diversion, if I may say so, will be considered by the public as a scandal. As a hereditary trustee, I have some surplus funds and I am trying to dispose of them as early as possible. I request the hon. the Minister and the members of the Select Committee to seriously consider this question.

"As regards the jurisdiction of courts to entertain suits relating to these institutions, it is said that only the district court has got the power to entertain them; but powers are taken by the Government to delegate certain powers to the subordinate courts also. I am opposed to such delegation. I want that the District Judge alone should have the power. There are many reasons for this. I myself have had bitter experience in such matters. Recently a Subordinate Judge appointed to the membership of a committee a person whose admission to the temple is questioned. The Advocate-General is a party to the proceedings, though I do not know whether he is aware of this appointment. The difficulty is that the trustee is in a fix. He does not know whether to admit him into the temple or not. The people in the village where the temple is situated are one and all against this member being admitted. Of course, the District Judge also may commit the same mistake. I do not say that he is free from committing such mistakes. All the same, I think it is better that such powers are given to district courts rather than to subordinate courts.

"There is a slight conflict between two provisions of this Bill, and that is about the term of office of the out-going committee. It is laid down that every member of the committee appointed under this Act shall hold office for five years. There is another provision, 44 (1), which says that the existing members shall be the first set of members under this constitution. In the transitory provisions we find that the existing members shall hold office, when this Act comes into force, for a period not less than two years nor more than three years. I think this requires redrafting, and I hope the hon. the Minister and the Members of the Select Committee will consider this. Having had very bitter experience of committee membership, I may say, Sir, that the sooner the term of the committee is brought to an end, the better it will be for all concerned. I think it was suggested in some of the earlier Bills—I think it was Mr. V. Rama Ayyangar who suggested it—that the term should be one year. I strongly support this view. I know of members who are in committees for 25, 30 or 40 years.

"I have already spoken about the diversion of surplus funds. The question of area should be seriously considered. Under Notes on Clauses on page 12, it is stated:

It has to be remembered that such endowments have since 1863 been left practically to themselves and several of them have, as trustees, proprietors of impartible estates and of members of the Nagarathar community who are generally regarded in this Presidency as not merely liberal endowers of temples but efficient administrators of the endowments in their charge.

[The Raja of Ramnad] [18th December 1922]

"If the 'and' is a connecting one it is all right but if it is a disconnecting one, I must strongly protest against it."

The hon. the RAJA OF PANAGAL :—"The compliment is to both, to Nagarathars as well as proprietors of estates and zamindars."

The RAJA OF RAMNAD :—"I am very glad of the assurance; but I am not prepared to withdraw my remarks. For in the Statement of Objects and Reasons, the following lines occur :

Proprietors of ancient zamindaris are trustees of some of them. Others have, as trustees, members of the Nagarathar community, who are generally regarded in this Presidency as not merely liberal endowers of temples but efficient administrators of the endowments in their charge.

"Unfortunately, there is a full stop after the first sentence. It may be an unintentional mistake. I think the Council knows this fact, that the Nagarathars do only the renovation of temples in some cases for establishing their names even where the renovation is not really needed. The class of people in this Presidency who have made large endowments are the zamindars. I do not think any other community can be compared with them in that respect, even remotely.

"Now, the temples under the zamindars who were hereditary trustees were never considered at any time to have been under the control of the Government and afterwards transferred to the zamindars. I have got authorities in support of my statement, the opinion of eminent men like Sir T. Muttuswami Ayyar and Sir V. Bashyam Ayyangar. I have got the opinion expressed very long ago by Mr. Blackburn, Collector of Madura, and even the opinion of the Directors of the East India Company. Within the short time that was at my disposal I was able to pick up all these references. However, I need not weary the Council with all these details. My point is that temples under the zamindars were never under the control of the Government. The Act of 1863 only applies to such temples as were once under the control of the Government and transferred to the various committees. Now this Bill aims at all the private and public trusts under the control of the zamindars. I think the hon. the Minister and the members of the Select Committee as well as this Council will show greater consideration to the interests of zamindars who have been practically the endowers of these temples and, in a majority of cases, have been even their founders. They have lavished their wealth on those temples, and, so liberally that, in some cases, if the income of the estate is twelve lakhs, the income of the trust is another twelve lakhs. So, on behalf of the zamindars, whom I have the honour to represent here, I appeal that they should be given such consideration as is their legitimate due."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—"There is an oft-quoted aphorism "*Yethi jeevantham anando naram varsha shatadapi*" which means that through years of darkness and desolation, through patient waiting, one attains bliss. For half a century attempts have been made to introduce legislative measures to secure better management of religious endowments but without any success. The public in general and worshippers in particular owe a debt of gratitude to the hon. the Minister for introducing this Bill. All safeguards are provided for protecting the interests of the hereditary trustees. I consider the Bill is a well thought out measure, but in one or two instances, it has not gone as far as one would wish. Reading sections 1 and 21 of Act XX of 1863, it is evident that some



18th December 1922] [Mr. T. Namburumal Chettiyar]

properties are still with the Revenue Board—properties the proceeds of which are devoted to secular purposes. Under the new Bill they are to be handed over to the committees. Section 33 of the Bill clearly says that the surplus may be utilized for secular purposes. As one of the objects aimed at is to avoid litigation, and as disputes arise not only on secular matters but also on account of differences between two parties of the same persuasion, such disputes will still continue under the new committee management if the personnel of the committee is not altered. The committee should, in my opinion, consist of a few pandits well versed in Sastras, or, if that is not practicable, a separate committee of pandits should be provided to settle such disputes and whose decision should be accepted as final. It is well known that the old Adalat courts maintained a staff of pandits to help the courts in deciding on points of law connected with such matters. Coming to recent times, it is said that the late Sir T. Muttuswami Ayyar always consulted the late Mr. Raju Sastriyar of Tanjore before arriving at his decisions on disputes of a religious or quasi-religious nature. In *Pancharatra* and *Vaikanasa Sastras*, the duties and qualifications of officials serving in temples, including trustees and managers, are distinctly laid down. The *archakars* were very learned men. An *archaka* was described as an embodiment of Hari himself. If such men were employed in temples as of yore many disputes such as arise in the present day will not arise. Disputes arise simply out of ignorance. Quite recently a dispute arose in Triplicane as to which *archakan* was to officiate at an *Utsavam*. The *archakans*, as we know, work by turns; one officiates for one half of the month, and another in the other half. It so happened that the *Brahmotsavam* commenced in the middle of the first half and ended in the middle of second half. The *archakan* of the first half started the festival. As per Sastras, he wears a *Cancanum* or makes a *Prathigna* that he will devoutly serve the temple to the end of the *Utsavam*. In the middle of the *Utsavam*, the second *archakan's* turn commenced and he claimed the right of his service in the temple but the first *archakan* observed that according to the Sastras he must continue to the end having made a *Prathigna* to serve till the end. There is another instance of a similar dispute which is of recent origin. This was as to whether an *archakan* should or should not have undergone *Thapta Panchasamsakaram*. Opinion is divided on this point and there are cases pending in the law courts in that connexion. There is yet another dispute, i.e., whether *Veda Goshthi* should precede or go behind the idols in temple processions. The object of the Bill, viz., to end all litigation, will not be gained to its full extent if provision is not made in the Bill for a staff of pandits being entertained to advise the committee, either in it or outside that body. I trust the hon. the Minister who is himself aware of these differences and disputes will see it fit, at the select committee stage, to appoint a staff of pandits to advise them.

“There are two or three points which require attention. It is not clear why the city of Madras is exempted from the operation of this Bill. In the city of Madras there are various temples and various endowments pertaining to them. I therefore think that some explanation is needed as to why the city of Madras is excluded.

“Clause 12 says that every member of a committee shall hold office for a term of five years. I believe that three years would be sufficient.

“Clause 25 deals with the obligations of the committee to keep regular correspondence. Some establishment is therefore necessary. Sufficient

[Mr. T. Namberumal Chettiyar] [18th December 1922]

provision is not made in the Bill for this purpose. If there is to be a continuity of work there must be some fixity of revenue.

"Well, Sir, the committee can ask the trustee to submit audited accounts, but, I think, it will equally serve the purpose if the temple authorities are called upon to furnish the required report without insisting upon audited reports by prescribing forms and returns to be furnished at proper times for the committee's scrutiny.

"Lastly, temples in pilgrim centres are called upon to contribute for sanitary purposes some funds to the local bodies. Pilgrims go to a sacred place for their spiritual welfare, and, temple funds ought not to be diverted for their bodily comforts. As far as my experience of the temples I have visited goes, whatever the pilgrims might contribute to the temples does not go to swell the capital of the temple. The temple servants who are not paid monthly and who only look forward to contributions from pilgrims, appropriate these sums but such amounts do not go to add to the capital of the temple funds. I therefore think that the provision regarding the contribution from surplus temple funds, if any, to the local bodies for sanitary purposes should not be accepted. With these remarks, Sir, I support the motion that this Bill be read in Council."

Mr. C. RAMALINGA REDDI :—"Sir, I thought at first that this Bill was a radical one, but when I find that it is being blessed from all parts of the House, I begin to suspect that it is not as liberal and thorough-going as anticipated. There are three points which I regard as important, and as for the minor points, they can very well be dealt with by the Select Committee.

"The first is the one raised by my hon. friend Mr. Namberumal Chetti, namely, that this Bill in its present form is not going to abridge the amount of litigation which has unfortunately become notorious in recent years. Even under the existing Act it is possible for a society like the Dharma-rakshana Sabha to file a suit for a scheme for the better management of the temple funds. It is a fact also within the experience of hon. Members that this method has not been satisfactory. The delays caused constitute one disadvantage, and the expenditure involved is the other; and there are various other factors which have in a large measure contributed to the unsatisfactory results of that system. My hon. friend the Raja of Ramnad also mentioned that the position of the hereditary trustee under this Bill would not be a very enviable one, as he would be subject to the supervision of the president of the committee. All the leading zamindars, who in most cases are hereditary trustees, feel that a position of subordination to the president is not consistent with their dignity. I think the real solution for both these difficulties, namely, the evil of litigation on the one side and the necessity for safeguarding the dignity of the hereditary trustees on the other, would be found in a proposal, which, I am surprised to find, does not find a place in this Bill. The proposal was made years ago by gentlemen of the type of the late Sir T. Muttuswami Ayyar and the late Mr. Chintal Rao and all those able men to whom reference was made by the hon. the Minister in his opening speech. They proposed that at the head of the temple administration in the Presidency, there should be charity commissioners who would be responsible for the administration of temple properties and the expenditure of their surplus funds. It seems to me that this is a matter of very great importance, and I would therefore like to ask why this has not found a



18th December 1922] [Mr. C. Ramalinga Reddi]

place in the Bill. This proposal would satisfy the objects which the Bill aims at and the principles that underlie this legislation. In these cases we are not dealing with endowments earmarked by the donors for purposes clearly set out. On the contrary, we are dealing with what may be called the general revenues of the temples. Take for instance, to put it concretely, the case of the great temple at Tirupati, the one with which I am well acquainted. Now, much of the revenue of that temple is derived from what are really votive offerings. The husband is seriously ill and the wife takes a vow to give all the jewels she is wearing to the temple if her husband recovers. Or, she is very desirous of having a son to perpetuate the name of the family, and she takes a vow that when the son is born a large sum of money will be given to the temple as a votive offering. By the income thus derived we are not going to carry out the objects of the donors, as it is composed of payments made after the donors' desires have been fulfilled. Therefore the Bill is right in diverting religious endowments from charities in which the objects of the endowers are not clearly stated, and the powers of the committees for diverting funds or rather regulating their destination will be exercised chiefly in cases of the kind I have just mentioned.

Now, it seems to me that the expenditure of temple revenue, after providing for all the legitimate requisites of the temple, such as worship and facilities for pilgrims, is properly an administrative function and not a judicial function. Therefore the better course seems to be to set up charity commissioners. If there are charity commissioners of the type mentioned in the proposals of Mr. Chintsal Rao and others, then I do think that we would have some guarantee that these funds would be expended wisely and that the commissioners would keep in their view the general interests of the country and try to secure a reasonable distribution of the funds as between different areas and proper co-ordination of schemes. I am not prepared to subscribe to the view of my hon. friend the Raja of Ramnad that we should go by a hard-and-fast rule regarding the limitation of these funds to areas in which the temples are situated. It is true that the temple of Rameswaram is situated in the southernmost district of this Presidency, but it is frequented by people inhabiting all parts of India, and most of the revenues of the temple are derived from people who do not belong to that district. Nor is the income of the Tirupati temple derived wholly or even in considerable part from the people of the Chittoor district. Therefore it seems to me to be necessary that these funds should be spent under the authority of charity commissioners who would be directly responsible to the Minister who in turn will be accountable to the Legislature. If this is done, the hereditary trustees also would be divested of that indignity or invidiousness of which my hon. friend the Raja of Ramnad has complained; and I do not think that they will have any objection to be under an important Provincial Board like the charity commissioners.

"Then there is one other point of some importance which I think the Council should consider and pronounce its opinion upon. At present it is proposed that these surplus funds be diverted to sanitary, educational and other purposes, as also for poor relief. Now, with respect to sanitation, I think there will not be any difference of opinion. The temples attract large numbers of pilgrims periodically and the local boards are put to extra expenditure on this account for carrying out sanitary measures, and it is but fair that the temple revenues should be made to bear a portion of the expenditure incurred by the local bodies on account of the pilgrims who resort to such

[Mr. C. Ramalinga Reddi]

[18th December 1922]

temples. But in regard to education and poor relief, a question of some delicacy arises. At present these surplus revenues of Hindu temples, according to the Bill, might be utilized for general purposes so as to benefit any community—Hindus, Muhammadans, Christians or those of other creeds. Now, speaking for myself—and I have always held that view—I think that members of all creeds may be included in any benefits derivable from such diversion of funds. But surely there are people who will raise the question whether their Muhammadan friends, if there is to be any legislation regarding Muhammadan endowments, would be equally ready to give their surplus funds for the benefit of other communities also. There is reason to apprehend that our Muhammadan friends may not feel it possible to allow the diversion of their surplus funds to the benefit of other communities. Their sacred law, I am told, prohibits it. If so, the Hindus will object to the one-sided bargain here struck; and if later on we wish to go back on it, it will create unpleasantness. I therefore think that in the present Bill it would be the wiser statesmanship to see that the educational, poor relief and other purposes are limited to members of the Hindu community. If when question of Muhammadan charities comes before this House, our Muhammadan friends would allow their surplus funds to be diverted as proposed in this Bill, then I guarantee that the Hindus would be generous enough to amend this Act so as to permit the fullest reciprocity.

“Now, one other point I have done. My hon. friend the Raja of Ramnad raised the question of nominations by Government, and some other members observed that it might result in nominations from people who are included under Hinduism but are excluded from Hindu temples. They also said that such appointments would give such men the right of entry into the temples. It seems to me that the existing Act governing these endowments does not provide for exclusion of any such kind. Moreover the Bill provide for an electoral roll being maintained in which such persons may find a place owing to the possession of qualifications laid down and they can also stand as candidates. Unless my hon. friend is willing to go further and say that members of certain communities shall not find a place in the electoral roll, the particular point which he raised seems to me to be beside the question. Various categories of people figure in this electorate constituted under this Bill and they could also stand for election. Then, how can we bring in this principle of excluded classes in the preparation of electoral rolls or put restrictions on the qualifications laid down for those who stand for election? If we are not going to do that, I do not see any reason why we should not allow the Government to nominate certain persons. I would particularly request my friends, who probably feel keenly on this subject, to consider that point of view. We are supposed to be living under the more liberal regime of reforms. In these days of democracy, for which my friend the Raja of Ramnad claimed to stand, there can be no place for such restrictions, and I doubt if he will press his point further. If we introduce restrictions of this kind into the religious endowments, when no such restrictions were imposed by the British Government during the days when it had full powers over these matters, I think we will be putting ourselves in a very false position. If we can trust in the common-sense of the people in the matter of elections, we should equally rely in the case of nominations on the common-sense of the Government. I do not think that the Ministers are more amenable to pressure than people who are likely to stand for elections for the legislature and other local bodies and who may be dependent on the electorate, including the excluded



18th December 1922]

[Mr. C. Ramalinga Reddi]

classes, for their success. Bargaining of the kind that my friend apprehends is sure to prevail even when the matter is left to election. We have to face facts as they are, and the times are altered, and there is no use trying to introduce hateful restrictions of the kind suggested. I think, Sir, that unless provision is made for charity commissioners and for limitations of the endowments to Hindu purposes, much of the good anticipated by this Bill will not be realized. If an administrative machinery of this kind is installed, it will administer and regulate the expenditure of religious endowments better than the courts acting on a short-sighted view of the local circumstances, and it will safeguard the position of the hereditary trustees.

"With these remarks, I strongly support the general principles of the Bill."

Rao Bahadur C. NATESA MUDALIYAN :—"Sir, Mr. President, I strongly support this Bill. I have a message to this Council from a public meeting of the citizens of Madras held in Mylapore over which I presided that they welcome this Bill as introduced by the hon. the Minister for Local Self-Government and that in their opinion it requires certain modifications to safeguard the interests of the various religious orders of the Hindus. As with the other Bill, the Bill to regulate State Aid to Industries, it required a people's Minister to introduce salutary changes in the administration of and in the application of the surplus funds of the various religious endowments. Though the necessity for such a measure was indicated many decades ago, our benign British Government, sticking to the very letter of the undertaking to observe religious neutrality, allowed the matter to drift on; nor did our past politicians care to bestow any thought on rectifying the affairs in any other way than by creating self-constituted organizations, some of which served only to bully the hereditary trustees whose forefathers might have given all they possessed to make the religious institutions a close preserve for the maintenance of the unemployed members of a particular community, for enriching kindred ones of the legal profession, and in some cases for diverting surplus funds to foster a dead language like Sanskrit, while the most classical and living language like Tamil required their utmost attention—all against the remonstrations of the worshippers who, helpless as they were in the pre-reform days, smouldering within had to digest their impotent rage in despondency. Now, our Minister, having the support of the people behind him, has thought it necessary not only to put his religious house in order but also make it useful to the public as in days of yore when our people religiously inclined to attain their salvation established not only educational institutions but also provided sanitary, medical, maternity, child-welfare and other reliefs, especially water-supply. Sir, in such services to humanity they found divinity. Even to-day in our land the activities of the Ramakrishna Mission, and in our city those of the Ramakrishna Home and of the Kannikaparameswari Charities are in this direction. Sir, let us take a leaf from the Christian Missions who, I believe, spent least on their churches but most in philanthropic works. Copying this cosmopolitanism, let us make the benefits of our charitable institutions available to all communities irrespective of caste or creed. In charity there is no distinction between man and man. Sir, the religious India of choultries, alms-houses, poor-feedings, and water-supply, everything has degenerated into fattening the lazy and the lethargic, and, I may say, the usurpers and the imposters. Sir, that is not new to you as a cosmopolitan statesman at the head of affairs, that wrought many healthy changes in the State of Travancore.

[Mr. C. Natesa Mudaliyar]

[18th December 1922]

"Sir, there is a fear lurking in many minds with regard to the electorate. The elected members for the committees contemplated in this Bill may consist of individuals having adverse views as to the creed of the temple or the mutt to guide the affairs of which these committees are intended. Sir, in fact, in our Hindu Sastras, we find that there is no religion as Hinduism, that there are no people called Hindus. It is only the foreigners that gave the appellation to us. In fact, our religion consists of three orders, *Vaishnavism*, *Smarthaism*, and *Sivaism*, all others being the off-shoots of those three principal orders. In their god-worship, in their sacred hymns, in their ceremonies of initiation and in their authorities for their ceremonies, in their authoritative text-books on philosophy, in their chief doctrines and their social aspects, these three are as different from each other as from any foreign religion. Sir, *Vaishnavism* and *Smarthaism* may be akin to each other. But *Sivaism*, the pre-historic religion of the Dravidians, stands now as independent as it was thousands of years ago.

"Then, Sir, the *Mattathipathi* is both administrative and spiritual head. It is only those that accept him as spiritual head that can have the right of voting to elect members to the committee in question.

"Sir, as to the hereditary trustees, it is desirable that the claims of the members of the families of hereditary trustees should be considered first before any stranger is placed in their stead when they are found defaulting.

"As for the diversion of funds, it is desirable that this legislative body should be the final authority over all the district courts or charity commissioners proposed by my friend, Mr. Ramalinga Reddi. In the pre-democratic days they were supreme, but now the democratic Legislative Council should be the final authority. Thanks are due to those that gave us the Reforms, for we are progressing politically and economically; and our immediate thanks are due to the statesmanship and foresight of His Excellency Lord Willingdon who gave us our popular Ministers and our worthy President."

Diwan Bahadur M. KRISHNAN NAYAR:—"Sir, I rise to support the principles of this Bill, and in doing so I do not wish to go into its detailed provisions. This Bill is to be referred to a Select Committee, and when it goes before that committee it will be the time for considering the details of this measure.

"The Indian National Congress, as it was constituted some years ago, used to pass resolutions almost every year requesting Government interference in Hindu religious institutions. But the Government on grounds of religious neutrality invariably refused to interfere, and the cry of the Indian National Congress used to be a cry in the wilderness. We are now glad, Sir, that the change in the constitution of the Government has enabled my friend, the hon. the Raja of Panagal, to come forward with this much needed measure.

"Some of my friends who have preceded me referred to the provision in the Bill for diverting the surplus funds for purposes of education, medical help and so on, and they naturally—I can very well understand their standpoint and I even sympathize with that standpoint—criticized adversely those provisions which enabled the diversion of funds to these purposes. That opposition to this measure which we hear in this Council will, I believe,



18th December 1922]

[Mr. M. Krishnan Nayar]

be supported considerably by opposition from outside this Council also. In spite of that opposition, it seems to me, Sir, that this provision in the Bill is probably the most beneficent of its provisions.

"It certainly requires a good deal of courage to introduce this provision and I heartily congratulate the hon. the Minister for Local Self-Government on his courage in introducing this clause.

"Sir, I think, it was my friend, Mr. Ramalinga Reddi that made a reference to one of the important institutions of this Presidency, i.e., the Tirupati temple. I think, if I understood him right, that he referred to this temple for the purpose of an argument against the introduction of this measure. No doubt, there is considerable force in my friend's statement; but, that is the identical temple which figured very prominently in the public eye some years ago, I think, some twenty years ago. Then there was criminal litigation as well as civil litigation and, I believe, the litigation was taken to the highest tribunal—the Privy Council. A great deal of dirty linen was washed very prominently before the public on that occasion. No doubt, there are some temples which spend their surplus funds in channels which, to say the least of them, are not conducive to public morality. It seems to me that it is very desirable and very necessary that the Legislature should take necessary steps for the control of these funds. After all, the danger apprehended, I think, is not very serious in any way. Of course, the existing provision can be improved upon considerably in the Select Committee. But even as it stands, there are considerable safeguards in this measure for preventing the diversion of these funds in undesirable ways and channels. For instance, if you read clause 33, you will find that it is only in the case of certain kinds of institutions that the diversion of funds may be ordered.

"Secondly, it is only on the application of the trustees or on the application of a local authority or the committee having jurisdiction, that a court can act in this matter. And after proceedings are initiated by these bodies or individuals and when a court takes cognizance of this matter, it is bound under the sections by certain rules. It is specifically stated that the object for which a court may order the diversion of the funds should approximate, as far as possible, to the intentions of the original donors. It is also stated that, apart from these institutions which have surplus funds, other funds can be utilized for those charitable purposes only when the original intentions of the donors have become impossible of performance or when the machinery which could carry them out has ceased to exist. I believe it was my friend, Mr. Srinivasa Ayyangar, who stated—and I perfectly agree with him in that statement—that it is the duty of the Government to provide for the sanitation, litigation, etc. It would certainly be so if the Government had ample funds at their disposal and even then there will be nothing wrong in making supplemental provisions for such purposes. But as a matter of fact it is a notorious fact that the coffers of the Government are now empty. The unreasonable attitude of the Secretary of State and the Government of India and—I beg your pardon, Sir, (*addressing Sir Frederick Whyte who was witnessing the proceedings*) of the Assembly presided over by you . . .

The hon. the PRESIDENT:—"Order, order. I do not think any such reference to a gentleman who is not in the House, could be made. He is an entire stranger to our deliberations."

Diwan Bahadur M. KRISHNAN NAYAR:—"Sir, I withdraw my remark. I was going to observe that the unreasonable attitude of the Government of

[Mr. M. Krishnan Nayar]

[18th December 1922]

India and of the Secretary of State and of the Assembly has temporarily—and I hope it is only temporarily—deprived us of the justice that is legitimately due to us. Therefore at this juncture, any money that we can reasonably get from any source whatever is not only welcome but essential. So that, the remarks of my friend Mr. Srinivasa Ayyangar, in some respects, are not right and the use of such funds for other charities is very necessary.

“As I stated, Sir, I have no intention of going into the details of the provisions of this measure just at the present moment. I may, however, say that the provisions of this Bill with regard to the period of membership of the members of the committee, i.e., a period of five years is very salutary. It is not desirable to give life membership to anybody for the result of making these committee members life members has only been to give a good deal of opportunity to the dishonest ones among them to enrich themselves and to make the honest ones among them lazy and indifferent in course of time.

“Then again, the other provision in the Bill enabling contributions to be made from funds of these institutions for sanitary purposes is a very important one. When important religious festivals take place, such as the *Mahamakham* at Kumbakonam, that provision is a very important one. The municipal bodies and the other local bodies very often have to provide very large funds and I think there is a provision in the Local Boards Act enabling such contributions to be made; but more often the contributions are not made. That provision also in the Bill is very necessary.

“Again, another objection was with reference to the danger apprehended by the Government nominating members on these boards. That objection is one which is applicable equally to the members who are going to be elected to the committee. It is only this morning that I had a discussion on this Bill with one of my friends and he referred to this fear. He expressed the fear that by enabling all the Hindus to take part in the elections to these committees there is a danger of persons who are not now according to certain usages and customs competent to enter temples being elected to committees. I told my friend that there is a provision in the Bill preserving the existing usages, and if necessary additional safeguards could be incorporated into the Bill to allay such apprehensions.

“On the whole, though there might be some defects in the Bill as drafted, it is a good measure and I heartily give my support to it.”

Rao Bahadur T. BALAJI RAO NAYUDU :—“I heartily support the Bill in all its features. After all that my previous speakers have said on this Bill, there is not much for me to say on it. There is only one fact which I like to mention. Almost all the religious institutions have a long established usage of some nature or other. There are quarrels happening every now and then between the *archakas* and the *paricharakas* both of whom are servants of the temple. The term ‘servant’ is not defined in the Bill and it is very desirable that the definition should be precise. There are now and then disputes between the *archakas* and the *paricharakas* or the *archakas* and the trustees. I think the execution of orders of the trustees or the committee in authority over the trustees, could not be done without obtaining a decree of court. I think, to avoid this trouble, it is essential to have the term ‘servant’ defined and to make necessary provisions to enforce the orders of the committee without the necessity for the intervention of the court even in such matters. These matters, I hope, will receive the attention of the members of the Select Committee.”



18th December 1922]

Rao Bahadur K. GOPALAKRISHNAYYA :—"In support of the measure that we are now considering, I wish to offer a few remarks. When one reads the provisions of this Bill, I think, the one prominent idea will be about the principle of religious neutrality. This idea has no doubt created certain fear to lurk in the mind of the hon. the Minister in charge when he proposed certain provisions to be incorporated in the Bill. No doubt there is only a slight deviation from the principles of strict neutrality which probably is a matter for congratulation for certain members of the Hindu community. But, it is at the same time a matter for regret for another section of the Hindu community that the Bill does not go far enough to reach the aspirations of that section of the Hindu community. While on the one hand the Bill seeks to give certain rights to the Hindus—I believe the term 'Hindu' includes also the untouchables—and gives them certain benefits, on the other hand when we go to clause 38, it is laid down that the persons interested shall be the persons that enjoy a right of worship and that is why I say that the Bill is not as far reaching as another section of the same Hindu community would wish it to be. It is rather very regrettable, Sir, that even from the days of the great Queen Victoria's Proclamation the principle of strict neutrality has been of great use to the Hindu community wherever social or religious changes have been sought to be introduced through the medium of legislation. Now, Sir, I congratulate the hon. the Minister for Local Self-Government for being able at least to make this slight deviation from the strict principle of religious neutrality.

"In regard to the change in the law, so far as the surplus funds of these institutions are concerned, I find that they are sought to be applied to purposes concerning the safety and health of the persons living in places where worshippers congregate.

"There are instances in the Ganjam district, Sir, to which my hon. friends from Ganjam would bear testimony, where there are no sanitary arrangements made either by the religious institutions themselves or by the local bodies, or by the Government, on particular religious occasions when millions of people gather. The little help that is given by the local bodies or by the Government is too inadequate to meet the situation. As such, it is necessary that these surpluses should be applied to the safety of the public who assemble at particular places on particular occasions.

"I fail to see, Sir, why the City of Madras should be excluded from the operation of this Bill. I thought some hon. Members would object to the inclusion of the City of Madras; on the other hand I have the support of Rao Bahadur T. Namberumal Chettiyar who also asked why the City of Madras should be excluded from the purview of this Bill. We know that there are in Madras a good many institutions of the nature which are sought to be governed by this Bill, and why Madras should be excluded is not explained either in the speech of the hon. the Minister or in the explanatory note which has been added at the end of the Bill. The note, however, states that this needs no explanation. I demand an explanation as to why Madras has been excluded from the purview of this Bill.

"Objection has been taken by some of the hon. Members to the principle of nomination on the ground that it was a retrograde step and that it goes far behind the operation of the present law with regard to religious institutions. I think it is Mr. L. A. Govindaraghava Ayyar who took objection to the principle of nomination to the committees. I think, Sir, that it is

[Mr. K. Gopalakrishnayya] [18th December 1922]

proposed in the Bill that amongst the voters shall be included all those persons who are qualified to be voters for the appointment as members by election. I think it is right that the Bill concedes that the minorities must be represented. As Mr. C. Ramalinga Reddi says it is the surplus funds of these places of worship that they are going to administer. Such funds may well be administered by any person who is interested in the health or safety or convenience of the public and I think it is therefore right that the executive Government should have power to nominate certain persons who are competent to act as members of these committees. With these observations I support the motion for the introduction of the Bill."

Mr. T. ARUMAINATHA PILLAI:—"I rise to congratulate in the first place the Hindu Members of this House and in the second place the hon. the Minister for this Bill. I congratulate my Hindu colleagues in this Council for the broadmindedness with which they have supported this measure though some of them have objected to certain points in it. And so far as the hon. the Minister is concerned, I really congratulate him for the bold step he has taken to bring into fruition a long-desired amendment to an Act which was passed so early as 1863.

"Sir, while commenting on this Bill I would suggest certain measures and press them upon the attention of the hon. the Minister. I was carefully listening to the discussion that has been going on and I also read the Statement of Objects and Reasons attached to this Bill. The Statement says that the litigation which is crowding round the temples and other religious institutions ought to be minimised as much as possible. But I find, Sir, that the provisions of this Bill do not really give effect to this idea. I was, therefore, expecting from this side of this House, as well as from the other side, that some more feasible methods would be suggested by which the powers of the court to regulate the endowments of these religious institutions would be minimised and the litigation would be put a stop to. It is in that light, Sir, that I welcome the suggestion of my friend, Mr. Ramalinga Reddi, that so far as these disputes are concerned, they ought to be decided by what are called the Charity Commissioners.

"Sir, in certain portions of this Bill, I am afraid, a large power is given to committees. I would give an instance in point. In clause 20 of the Bill it is stated :

in the case of a dispute respecting the right of succession of a hereditary trustee or a minor or a lunatic, the committee may appoint a fit person to discharge the functions of trustee of such endowment until some other person shall by means of a suit or otherwise, have established his right to such office or to discharge such functions.

"So, any person who is aggrieved by the order of the committee will have to go to court to settle his right. I think this portion requires alteration. Considering the present state of the judicial decisions and the stamp duty which these poor men will have to pay, I ask whether it will be right on the part of the committee to decide, and whether it will be right on the part of this legislature to allow them to decide and leave the fate of the trustees in the hands of laymen. I submit therefore that the committee which under another clause is entitled to get every year 3 per cent of the gross income of the temple funds should decide such things, and if it is not possible for them to decide as to who should be the trustee, it is they that should go to court and file interpleader suits without driving the poor parties and get the court's decision. I would submit that would be a very good



18th December 1922] [Mr. T. Arumainatha Pillai]

idea. Instead of that to leave the power entirely to the committee to decide as to whether A or B is to be the trustee is, I think, too much of an order to be given to them.

"My next objection to this Bill is this: clause 34 of this Bill gives large rule-making powers to the Government and this will be evident to anyone who reads sub-clauses (a) to (h). The hon. the Minister would do well to include all the powers he wants as clauses of this Bill. That would be a far better procedure. As it is, it is leaving the whole thing in the hands of the executive Government. Again, how far the decisions of the committee shall be final is left entirely to the rule-making powers of the Government. I would say one word about this rule-making power. Mere publication of the opinion of the Government in the gazette would be quite enough for it to become law. In spite of the fact that the Government is a liberal-minded one and has broad views, I am against giving that power to the Government. I would rather have it embodied in the sections themselves so that all people might know as to what the powers of the committee would be. It is all true that the constitution of the committees is to be by election, etc. As far as the real powers of the committee are concerned, I am afraid this Bill does not state them in any clause at all. Therefore, I would earnestly submit to the hon the Minister to provide the powers of these committees in the Bill itself.

"Then, Sir, clause 30 of the Bill states:

That the trustee of every such endowment shall within three months of his receipt of such notice pay out of the funds of the endowments in his charge the amount of the contribution so demanded to the president of the committee or any person authorized by him; and, in default of his doing so, the court shall, on the application of the president of the committee, recover the amount as if a decree had been passed for the amount by the court against such endowment.

"Time may come when these people will have to fight in court again; and again, when the trustee refuses to pay 3 per cent and the committee goes on attaching and taking away 3 per cent, most probably, within a few years, all the fund of the religious institution will have been taken out and given into the hands of the committee. My friend, Mr. R. Srinivasa Ayyangar, shakes his head here. If it is 3 per cent once for all then it is all right. But the clause says 3 per cent annually and therefore I submit that for the small powers given to the committees—perhaps only a sort of supervision—even this contribution of 3 per cent is rather too much. Here I agree with Mr. Namburumal Chettiar that many of these religious institutions do not have much surpluses and think that it will be a great hardship for them to pay to a committee for which no particular work has been allotted.

"Again in another place in clause 24 (2) the Bill states:

Where a trustee who has been removed or dismissed or has ceased to hold office fails or refuses to obey . . . as if such property, title-deeds, account books and other documents had been decreed by such courts to such person.

"I am speaking subject to correction from the hon. the Law Member when I say that so far as the Court Fees Act is concerned I do not believe any sort of provision has been made for stamp duty upon many of these provisions in this Bill. I would also ask the hon. the Finance Member to say if he would be prepared to lose the money he would be getting . . . He says he is not prepared to do that. These things do not find a place in this Bill. It is for the above reason that I say that

[Mr. T. Arumainatha Pillai]

[18th December 1922]

these great powers of courts should be abolished and their places should be taken by Charity Commissioners. This is a very essential portion of the Bill. And if any real good to these religious endowments is to be done, I would rather have, that as far as possible litigation about these things should be decreased. It was also stated by Diwan Bahadur L. A. Govindaraghava Ayyar that the application for sanction should be made only by the Collector. Section 92 of the Civil Procedure Code gave such powers to the Advocate-General and as such it was a retrograde measure. But if you read this Bill in another portion it is stated that so far as the powers of the Advocate-General are concerned they are undiminished.

"Then, Sir, it is stated :

Nothing in this section shall affect any rights or powers in respect of religious endowments which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act.

"I believe that this may mean that if the Advocate-General by himself finds that there is a maladministration or malfeasance of any of the public endowments, he need not wait for any person to come before him under section 92 of the Civil Procedure Code, but may himself go to court and file a suit for the proper administration of the endowment. I believe that, so far as the powers of the Advocate-General are concerned, there is no doubt that they are very much larger under this Bill than even under section 92 of the Civil Procedure Code.

"Again, Sir, my friend, Mr. R. Srinivasa Ayyangar, stated that up to now he is a member of a committee for South Arcot which is in charge of 70 temples and that hereafter the number of temples will be very largely increased. But, so far as the framers of this Bill are concerned, they have made it possible for committees to be appointed even for a single religious endowment or class of endowments, and if such a thing could be done, I don't think that all the difficulties anticipated by my friend, Mr. R. Srinivasa Ayyangar, would ever come to pass."

At this stage the Council adjourned for lunch.

The Council re-assembled after lunch at 2-30 p.m.

Diwan Bahadur D. SESHAGIRI RAO PANTULU :—"Mr. President, I beg to give my hearty support to the Bill and to thank the hon. the Minister for introducing it.

"I am not afraid of Government nomination, because the Bill provides for election of not less than two-thirds of the members; nor am I afraid that Government will nominate a person who will not be admitted into the temples. Section 42 of the Bill distinctly respects established usages and I am sure that the Government will not act the part of a social reformer by introducing any drastic changes into the constitution of these committee members.

"With regard to the diversion of the funds, my humble submission is that they should not be diverted to secular education; I would limit the funds to purposes connected with the institution of which they form the endowment. There can be no possible objection to the funds being spent for the sanitary measures that are necessary for the health of the pilgrims that resort to the various institutions; nor have I any objection to the funds being devoted to religious education given in the institutions.



18th December 1922] [Mr. D. Seshagiri Rao Pantulu]

In fact, I would advise that the surplus might be spent for purposes connected with the institution itself and that will not be objectionable at all. It is the primary duty of the trustees to provide for the health of the pilgrims that resort to these institutions and, as such, necessary steps for securing the health of the pilgrims may be taken and the amount spent on them. Of course, the local boards also will co-operate with them and, with the co-operation of the trustees and the local boards, I think the desired object may be secured.

"Then, something was said that these hereditary trustees should be differently treated. I believe the Bill provides for some supervision of the committee over these hereditary trustees also. A person may endow his institution with large funds, but there is no guarantee that the successors of the endower will manage the institution as efficiently as he will like it to be managed. Under these circumstances, I see no objection to the powers of supervision given to these committee members over the hereditary trustees also.

"I do not understand why the tenure of office of the president of the committee should be limited to one year only. When the committee members elect a president, I should advise the term of the president to be extended to three or five years during which period the members of the committee hold office. One year is too short a term for the president to do anything substantial for the improvement of these institutions which are unfortunately too well known for their mismanagement.

"I am against the payment of any salaries to the committee members; they must work as honorary members, and I think they themselves will object to being paid out of temple funds. It is considered a great sin to take any payments from temple funds.

"I think the Select Committee will be well advised to define the word 'Hindu' in the Bill, because several persons who have no sympathy or who do not believe in the form of worship that is followed in these temples are for certain purposes of law treated as Hindus, and it goes without saying that if these committees consist of members who believe and sympathise with the form of worship that is going on in the temples, they will better manage the institutions than those who have got only an academical interest in them.

"With these few remarks, I support the Bill."

Mr. P. SIVA RAO:—"Mr. President, I give my hearty support to the general principles contained in this Bill, and I also take this opportunity of congratulating the hon. the Minister for Local Self-Government upon the courageous step he has taken forward.

"Sir, this is a reform which we have been long longing for and we have in season and out of season been pleading that some effective control should be brought to bear over the religious endowments in the country. We all strongly felt that the funds at the disposal of these religious endowments were being wrongly diverted for purposes for which they were not originally intended, or for less salutary purposes. As I said at the outset, we have been pressing for this reform for a very long time and only the policy of religious neutrality on the part of the Government has all along stood in the way of sanctioning any legislation of the sort which the hon. the Minister has now brought forward.

[Mr. P. Siva Rao]

[18th December 1922]

"Now, Sir, I will say that the present Act (Act XX of 1863) applies in terms both to the Hindu and Muhammadan religious endowments. I want a statement from the hon. the Minister as to why he has omitted the Muhammadan religious endowments from the purview of this legislation. Next I am tempted to ask, as some other hon. Members of this Council have done, as to why the religious institutions situated in the City of Madras have been excluded from the operation of this Bill. Probably there might have been some technical difficulties in the way, but I should like to be told what they are and whether it is not possible to solve them in the Select Committee.

"Having said so far, I should simply refer to some of the salutary features of the Bill. One salutary feature of it is that it does away with the life-term of a member of the temple committee. Another is that it provides for the preparation of budgets by the trustees subject to the approval of the committees. Next, Sir, the committees have hitherto been working on no funds whatever and the Bill provides powers for the committee for raising funds to enable it to carry on its business. It also provides for the summary dispossession of a trustee, or a servant, who has been turned out under the orders of the committee. Hitherto a lot of precious time used to be wasted on unnecessary litigation towards the ousting, or towards the actual removal, or towards the recovery of possession of the temple properties from a trustee or servant who had been removed. The Bill also provides—and in my opinion this is a very salutary feature—that the local authorities should demand contributions towards sanitary improvements in the case of large institutions where there is an urgent need for sanitary measures to be carried out, especially during big fairs of the temples. Last of all it also carries out the well-known equitable doctrine that where there are any surplus funds at the disposal of an institution, such funds should be diverted for works of some public utility, such as education and medical relief. As regards this last provision, Sir, there has been some difference of opinion as to whether it would not be admissible to limit the use of these surplus funds to distinctly local purposes. I am one of those who think that the surplus funds arising out of any particular institution should not be utilized anywhere and everywhere in the Presidency; they should be ear-marked for local purposes, or for purposes strictly connected with that institution out of which the funds have been raised. Also it seems to me that the funds should be confined to only such works of utility as would benefit the class of persons for whom the institutions are intended.

"Sir, having said so much about the merits, I now come to the defects of the Bill, some of the vital defects. One such defect is that it provides for nomination by the Government. Sir, nomination may be necessary in certain representative institutions, but it is completely out of place in religious institutions. The only reason that has been put forward for retaining nomination in cases like this is the necessity for safeguarding the interests of the minorities. If we consider the matter closely there are no minorities whose interests have to be safeguarded in a matter like this. Minorities arise only when there are differences between two communities. But in the case of institutions which are intended for the benefit of one community, the Hindu community, where can any question of minorities come in? Provided they come within the pale of Hinduism, they are all entitled to the benefits provided in the measure. Mr. Ramalinga Reddi said that there could be no objection to have the principle of nomination in these cases. He said: 'What



18th December 1922]

[Mr. P. Siva Rao]

objection can there be to nomination so long as all people remain eligible for candidature?' It may be, Sir, that they are eligible candidates. In some possible cases they may be returned by election, and if they are so returned, it means that the people in the locality do not object to the coming in of such people. It is quite a different matter to say in a question like this, in religious matters where we have to tread cautiously, that the Government should step in and introduce its own democratic notions into the management of religious institutions where the sole consideration should be the religious usages and customs of the people. That is my serious objection to the retaining of nomination by Government.

"One other vital defect that I notice in this Bill is that its scope is very much extended. Sir, the Act of 1863 applies only to temples and mosques and to certain classes of trustees known as 'non-hereditary trustees' whereas the scope of the present Bill is extended to hereditary trustees as well. It has been made applicable to the *mutts* and *mathadhipatis*. Here it is that the Bill is dangerously wide in its extent and I say in all sincerity that the Bill must exclude from its purview the *mutts* and *mathadhipatis*. Religious endowment is defined in the Bill as 'a temple, mutt or other place used as a place of public religious worship or religious instruction' and as pointed out by my hon. friend, Mr. Srinivasa Ayyangar, it may include even a *patasala*. Just fancy a *mathadhipati* like the Swami of Pushpagiri or Sringeri being placed under the control of a temple committee. The committee will have powers of general superintendence over the affairs of these *mutts*. Worse than that, they can even interfere in their internal administration. I am strongly of opinion, Sir, that the *mutts* and *mathadhipatis* should be excluded from the purview of this Bill.

"Again, Sir, I would just call the attention of the members of this House to the provisions contained in section 34 of the Bill. I quite agree with Mr. Arumannatha Pillai that the rule-making power contained in that section is rather dangerously wide. For instance, I refer to sub-clause (g) of that clause. In what matters of internal management the Government can interfere must be very clearly specified and should not be left to the rule-making power. In sub-clause (h) again, the committee is empowered to decide questions like the first *theertham* in a temple, which are now being considered by the civil courts. It is much better to prescribe in the Bill itself the cases in which the committee can interfere in the internal management of a religious institution than to leave them to the rule-making power. I should say, Sir, that in matters of internal administration of temples or religious institutions, neither the Government nor the committee should have any voice. They will have to exercise certain general powers of superintendence and satisfy themselves that the funds have been broadly and generally utilized for the purposes for which they have been placed at their disposal. I, therefore, think, Sir, that the rule-making power is rather wide. I do not see any reason why the provisions of sections 92 and 93 of the Civil Procedure Code should be made inapplicable to suits under the Bill.

"One other defect that I notice in the Bill is that the committee is given power to formulate schemes in regard to any religious institution. Hitherto that power lay with the civil courts, but now in the case of big religious institutions, the committee will have the sole power to advise and formulate

[Mr. P. Siva Rao]

[18th December 1922]

schemes. It is a question, therefore, whether it is not desirable to retain that power with the civil courts.

"Again, Sir, as was pointed out by my hon. friend, Mr. Govindaraghava Ayyar, the Advocate-General should be deprived of the power of granting leave which he now possesses under the Bill. Sub-section 2 of section 114 of the Government of India Act is a special provision by which the Advocate-General can file a suit by himself.

"I would generally approve the principles of the Bill. But, before I close, I should refer to the saving clauses of the Bill, clauses 42 and 43. I cannot fancy how the framers, who allowed wholesale interference with the usages and customs, introduced these saving clauses. It looks to me anomalous and inconsistent on the face of it. What these usages are, how far the committee can interfere with them have to be very clearly specified. There is no good imposing jurisdiction over these ecclesiastical heads. It is no good trying to invest the committees with powers over the *mathadhipatis*. Fancy for a moment the committee assuming jurisdiction over, for instance, a certain established church. That will be strongly resented. So also the *mathadhipatis* occupy positions of rare honour and trust and spiritual power and I do not think it is desirable that these small committees should assume jurisdiction over them."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, the debate on this Bill has shown that there has been a considerable diversity of opinion on the four or five of its cardinal points. In the first place, the hon. Member in charge of the Bill states in the Statement of Objects and Reasons that the principle of strict religious neutrality has been given up in this Bill and he justifies that departure on the ground that there has been a change in the position of the Government of this province. He repeated the same statement in introducing this measure. I venture to think that all considerations are quite the other way. The Government of this country during the last sixty or seventy years have observed strict neutrality in questions religious and in 1863 they actually divested themselves of the control of religious institutions. And if my hon. friend thinks that because the composition of the Government is diarchic and that because he and his two colleagues are in the Government, there will be no opposition on questions covered by this Bill, I consider that he is mistaken about it. I think that the religious institutions of this province ought to be kept outside the pale of party politics. If we have had a change in the government of this province, it is towards the development of a party organization. I should like to know from my hon. friend whether he and his successors in office would like to bring our religious institutions into the contention of parties. It is a point that I would like the hon. Member to consider. In this connexion I would ask whether the large powers which the Government have taken for nominating members, for the appointment of presidents, for dissolving councils and reconstituting them, very much in the same way as my hon. friend is dealing with district boards and municipalities, whether that method of management of these institutions directly by the Government in the sense of nominating a definite proportion of members in charge of the institutions, is justifiable even on the assumption that there has been some amount of change in the composition of the government of the country. I venture to think, looking at the numerous sects, sub-sects and the various



18th December 1922] [Mr. M. Ramachandra Rao Pantulu]

considerations in the management of these religious institutions to which my hon. friend, Mr. Natesa Mudaliyar, has referred, that it will be the height of wisdom on the part of the Member in charge to keep himself entirely out of the management of these institutions. Some hon. Members have said that because members of district boards and municipalities are appointed by the Government, members of these bodies may also be appointed by the Government. If it were given to me, Sir, I would take away even the power of nomination to local bodies from the Government. We cannot ignore the feeling that has grown up in this province to some extent already that these nominations are being used for political purposes and, if this is so, it will be much more inadvisable to bring in the religious institutions under the control of the Government. On broad grounds, I submit that my hon. friend will be well advised if the power of nomination which is proposed in the Bill is done away with, and on that one ground, apart from all other considerations, I would suggest that the Bill should be so amended that the Government should have nothing to do with these institutions except probably to appoint some visitorial officers at the beginning. I cannot agree with my friend, Mr. Ramalinga Reddi, that the Government should have a large share in the control of these religious institutions. In the first place, hon. Members will see that the various drafts before us—the Robinson draft, the Muttuswami Ayyar draft, the Sullivan draft—all proceeded on the assumption that the Government should have nothing to do with the administration of these bodies. The Robinson draft wanted to constitute a central committee which had nothing to do with the Government. The Sullivan draft also proposed the constitution of a central committee to be elected by district committees. Sir T. Muttuswami Ayyar's draft suggests that the power of control should be vested in district courts and not in a central body in Madras. Some hon. Members made mention of the Sir T. Muttuswami Ayyar's draft. I looked into his draft. He proposes that the district courts should be the authorities which should have power over these committees. For these reasons, I think the line of reform advocated by Sir T. Muttuswami Ayyar is about the best. That constitutes local control over these institutions. The hon. Member, Mr. Ramalinga Reddi, said that the Charity Commissioners would be the kind of authority which would protect the dignity of the zamindar and put down litigation with a strong hand. So far as I know of the functions of the Charity Commissioners, they are a body of persons who are no respecter of persons, not even zamindars. As regards putting down litigation, I should have some statistics as to which litigation has been caused by the present Religious Endowments Act before I can pronounce an opinion on the same. I think, Sir, the best way of dealing with this question is for the Government to divest themselves of all the powers which are proposed to be taken under this Bill and to vest in district courts enlarged powers of visitation, of inspection and of control over these committees. That should be one of the essential features of the measure. If that is not done, I am afraid that our religious institutions will be placed at the disposal of the party in power for the time being and will be utilized to achieve political ends. I hope the hon. Member in charge of this Bill will try to see my point of view and will protect our religious institutions from being dragged into the arena of party politics.

“Sir, there are some other questions to be considered. The most important question is the power of spending these funds or rather diverting the surplus

[Mr. M. Ramachandra Rao Pantulu] [18th December 1922]

to certain definite purposes. I think, even here, there has been a considerable amount of diversity of opinion. My hon. friend, Mr. Seshagiri Rao, stated that the expenditure should be confined wholly to non-secular purposes. Another hon. Member said that they should be devoted for the use of communities for which the original foundation was established. So far as I am concerned, I shall be satisfied if the funds are administered by courts after ascertaining the views and usages of the foundations concerned. But if the diversion of funds is to be undertaken without any reference to courts and without any reference to all the parties interested in the institutions, then it will be very dangerous to indulge in such a course. I think the provisions of this measure are to be adopted subject to the limitations that I have stated, namely, the power being given to the district courts to decide whether it is a justifiable diversion of surplus funds and whether the funds can be spent on purposes not set forth by the founders of the institutions. All these questions should be sufficiently investigated before the measure is finally passed into law. No doubt we have at the back of our minds some fear that there will be unauthorized diversion of these surplus funds. In fact my hon. friend, Mr. Krishnan Nayar, stated that, on account of the present financial stringency, it would be better if some of the surplus could be spent upon medical relief, sanitation and such other purposes. It is a very great temptation, but I am certain that it will be unjust to the persons who established these foundations to divert some of the surplus funds of those institutions to purposes other than those which are strictly relevant to the object of the foundations. Therefore I say that the whole question is one for courts and it will be safe if the courts are authorized to deal with this class of questions.

"There is one other aspect of this problem and that is the question of definition of a 'Hindu' to which my hon. friend, Mr. Seshagiri Rao, made some reference. I believe it was the Raja of Ramnad who raised this specific question as to whether persons who are not entitled to enter temples could be elected as members of these committees. My hon. friend Mr. Ramalinga Reddi, stated that if that was to be logically carried out they would be shut out also from elections and he also stated that he would very much like that these rules were relaxed to some extent. If that is merely a pious wish, I entirely associate myself with him in it. But the whole question is, if we are to take the community with us, we shall have to make up our minds as to what is exactly the position to be given to them. I hope the hon. Member in charge of the Bill will make a definite statement whether it is his intention to use these powers of nomination to bring in such men who are at present prohibited from entering the temples or whether he will devise some other method of admitting such persons into the temples. If that is the intention of the hon. Minister, I wish he makes a definite statement on the point, so that we may know where we are on this question.

"Several hon. Members have spoken in support of this Bill but when it came to the question of consideration, they were really attacking the very vital principle of the Bill. As I have already stated, there are some cardinal questions to be considered in this Bill; they are the question of the powers of the Government, the question of diversion of surplus funds, and the question of composition of the committees. I am perhaps in the same position as some other hon. Members in regard to these questions, but I do think that something is required to make the Bill complete and I only hope that changes will be made in the Select Committee to meet these criticisms."



18th December 1922]

Mr. P. C. MUTTU CHETTIYAR:—மிஸ்டர் பிரசிடெண்டு சார், கனவான் களே,

“என் டெளமெண்டு என்னும் தர்மசம்பந்தமாக ஒரு பில் வந்திருப்பதற்கு நான் வந்தனம் செலுத்தகிறேன். ஆனால், இந்த விஷயம் ரொம்பக் காலமாக எதிர்பார்க்கப்பட்டது. ஏனெனில், ஆலயசம்பந்தமாக விசாரணை கர்த்தாக்களால்தான் இது வரவேண்டுமா இன்னும் மற்ற காரணங்களாலும் இது வர எதிர்பார்க்கப்பட்டதா என்று யோசிக்கவேண்டும். மற்ற காரணங்களாலும் இது எதிர்பார்க்கப்பட்டதென்பதற்கு இதில் போதுமான நியாயங்கள் சேர்க்கப்படவில்லை. அதில் சில முக்கியமானது, தேவதைகளை கையாளும்படியானதும் அதற்குரிய தொழில் கைங்கரியங்களை கையாளும்படியானதுமானதில் பரம்பரை சுதந்திரஸ்தர்களைப்பற்றியும் தேவதைகளுக்கு வரும் வரும்படிகள் விருத்தியைப்பற்றியும் இந்த பில்லில் சரியாய் கவனிக்கப்படவில்லை.

“அன்னியில் சொந்த டிராஸ்ட்டி அல்லது சொந்த கோவில் சத்திரம் சம்பந்தமாக உள்ளவருக்கு சுதந்திரம் கெடுவித்திருப்பது போருமானதல்ல. அவர்கள் விஷயம் மற்ற டிராஸ்டியைப்போலல்ல. பணத்தை மீதியானால் வினியோகிப்பதற்கு கண்டிருக்கிறது தகுதியில்லாமலும் தெளிவில்லாமலும் இருக்கிறது.

“புராணமாக ராஜாக்கள் ஜெமின்தார்கள் பிரபுக்களாலும் ஏற்படுத்தியிருக்கிற சிராமாந்திர தேவாலயங்கள் வகையரா மறைப்பட்டு புராணமாய் வருகின்றன. அதை கொஞ்சமும் கவனிக்காமல், ரூ. 250 மேல் வரும்படியுள்ள பாகங்களைமட்டும் கவனித்திருப்பது பொறுத்தமாயில்லை. முக்கியமாய் சிறிய ஆலயங்களைக் கவனிக்கவேண்டும். அவைகளை சீர்குந்தம் செய்துவிட்டதான் பெரிய ஆலய விஷயங்களில் பிரவேசிக்கவேண்டும். அப்படி சிறிய ஆலயங்களைப்பற்றி யோசிக்காதது ஏழைகளை மறப்பது தகுதியானதுபோலாகும். கமிடிகள், டிராஸ்டிகள், அப்பாயின்டமெண்ட் விஷயம் தெளிவாய்க் குறிக்கவேண்டும். மதசம்பந்தமாக அநேக வித்யாசங்கள் இருக்கின்றன. அவைகளைப்பற்றி பாதிக்காதவிதமாக எழுதப்படவில்லை. இவைகளெல்லாம் யோசித்தால் இந்த பில்லில் கண்டிருக்கிற வழி சரியாகயில்லை.

“மடாதிபதி என்றால், சன்னியாசி, தபசி, யோகி, அவர் தன்னுடைய மதத்திற்கு குருவாயுள்ளவர். அன்றியும், சன்னியாசிகள், குடும்பசன்னியாசி, ராஜசன்னியாசி, சிஷ்ய சன்னியாசி, உலக சன்னியாசி என்னும் பலவித விஷயங்களை பொருந்தினவராய் விளங்குகிறார். அவர்கள் தம் தம் பதவிக்குத் தக்கபடி சொத்துக்களை சேர்த்திருக்கிறார். அவர்கள் பதவி எப்படியிருப்பினும் மனுசீகத்தில் அவர்கள் செய்யவேண்டிய பல காரியத்தில் சிலதை சொல்வோம். அவர்கள் முக்கியமாய்ப் பணத்தை வித்தியார்த்திகளை ஆதரிப்பதிலும், வித்வான்களைக் கண்டுபிடித்து பரிசு அளிப்பதிலும், சாஸ்திரங்களை விருத்தி செய்வதிலும், இன்னும் மத விஷயங்களிலும், செலவு செய்யலாம். தேவாலயங்கள் மடங்களைப்போலன்று.

“இன்னொரு முக்கியமான விஷயம் நான் சொல்லத்தணிந்திருக்கிறேன். அது கவனிக்கப்படவேண்டுமென்பது என்னுடைய பிரார்த்தனை.

[Mr. P. C. Muttu Chettiyar] [18th December 1922]

தனை : முக்கியமாய் பாபிகளுக்கும், பாபரிமோசனத்திற்குத் தான் நியாயஸ்தலங்களும், எல்லாவித சிவில், கிரிமினல், ரெவினியூ முதலிய சட்டங்களும் ஏற்படுத்தப்பட்டன, என்பது என்னுடைய அபிப்பிராயம். கற்றறிந்த நண்பர்களும் எனது இந்த அபிப்பிராயத்தை ஆமோதிப்பார்கள். தேவதைகளும் தர்மங்களும் யாதொரு பாபத்தையும் செய்ததாக நினைக்கக்கூடாது. அவைகள் எப்பொழுதும் அனுககிரக சக்தியை உடையவை. அவைகளும் கோர்ட்டுக்குப்போய் வரும்படியாயிருக்கிற செக்ஷன்களை எடுத்துவிடவேண்டும்.

“இந்த மாதிரி விவகாரங்களுக்கு இடமிருந்ததினால்தான் ஆலயங்கள் தோறும் விவகாரங்கள் ஏற்பட்டன. தகுந்த புத்திமான்களால் பில் வரவேண்டுமென்று எதிர்பார்க்கப்பட்டது. சட்டத்தில் மெய்ம்மறந்தவர்கள், தேவதைகளிலும் மெய்ம்மறந்து தேவஸ்தான பணத்தை புதையல் அகப்பட்டதுபோல் கைப்பற்றவும் எடுத்து கோர்ட்டுகளில் சில வழிக்கிறார்கள். ஆகையால் நமக்கு அதிர்ஷ்டமாய்க் கிடைத்த ஆளரபில் மினிஸ்டர் தேவஸ்தானத்துக்கு கோர்ட்டு சிலவு எவ்வகையிலும் ஏற்படாதிருக்க தக்கவாறு யோசித்து வேறு உபாயம் இருக்கிறதைக் கண்டு ஏற்படுத்தவேண்டும். ஆகையால் எல்லா விஷயங்களையும் சபை கமிட்டியில் ஆலோசித்துத் தகுந்த ஏற்பாடு செய்வார்களென்று நம்புகிறேன்.”

MR. R. APPASWAMI NAYUDU :—“Mr. President, Sir, this Bill, which is long overdue, is just now brought before the Legislative Council and I fully trust and hope that this will fulfil the just aspirations of the general public. Ever since Regulation 7 of 1817 was repealed so far as religious endowments were concerned, and, in its stead, the Government of India Act XX of 1863 was enacted, there was gross abuse, misappropriation and maladministration of the trust properties by the committees, by the individual trustees and by the successors of the original donors of these properties. These malpractices and malfeasances were carried to such an abnormal extent that the general public were in a perpetual state of alarm as to how and when these evils would end and condemned them very often both on the platform and in the press. From time to time many attempts have been made by private and responsible individuals to introduce some amending legislation so as to protect these trust properties from impending ruin and deterioration; but all their efforts have been rendered futile by the apathy of the then Government. Sir, whether it is apathy or strict religious neutrality, all the same they have remained all this time as passive on-lookers while such gross injustice was being perpetrated in regard to these religious endowments and while also the public were loudly demanding for legislation, to rectify the existing defects. Sir, whether the Government were justified in keeping such strict religious neutrality at a time when the whole country was ringing with one voice to put an end to the wastage of trust funds by an amending legislation,—it is not for me to say, but it is for you to judge. Now at last a ray of hope is held out to the religious public who have been till now waiting to know what the future state of the endowments would be. Sir, it has happily fallen to our lot—I mean this reformed Council—to take the responsibility of enacting a measure of this nature; and I congratulate the hon. the first Minister on his good luck, as the first Hindu Minister, to



18th December 1922] [Mr. R. Appaswami Nayudu]

introduce a Bill of this nature. I congratulate him also on his wisdom and on his perseverance and preparedness to pilot this Bill through this Council. I wish him a safe voyage to the destination.

"Now, Sir, as regards the Bill itself, I beg to offer a few suggestions to the Select Committee which will sit to consider the Bill and give it the final shape. Some of the rich endowments of quasi-religious nature which do not strictly come under the purview of Act XX of 1863 have been excluded from the operations of this Bill. Sir, I should like to know whether the charities, intended for public benefactions like the feeding of Brahmans, giving doles to *Barragees* and maintaining temples, and endowed with large properties of a hereditary nature, but ordinarily mismanaged and swindled by the successors of the original donors, will come under the scope of this Bill. Sir, as certain *mutts* have been deliberately included in this Bill for their pronounced mismanagement I would request the hon. the Minister in charge of this Bill to include these rich, hereditary and quasi-religious endowments, which are on a par with the *mutts* not only in point of endowments but in their mismanagement as well; otherwise, in my opinion, the Bill will be defective. Sir, in order to secure this end I wish that a list of endowments of a fully religious kind and of a quasi-religious nature, with their origin and nature, should be carefully prepared for each district by a committee, before the enactment of this Bill, with a view to include also endowments which clearly appear to be of quasi-religious nature, within the purview of this Bill; and the list of such endowments should also be published in order to avoid confusion and contest. Sir, it is not my intention that the list should be final at the time of the passing of this Bill; it may be added to from time to time according to recommendations made by a committee constituted for this purpose. Without some such arrangement the Bill, in my opinion, will be defective, and will give rise to future amendments.

"Now, Sir, as regards the hereditary endowments that fall under section 4 of Act XX of 1863 care should be taken in preserving the rights of hereditary succession, the right of management and the appointment and dismissal of officers, etc. In this case the President of the Committee should not be given power to interfere with the internal management of such trust excepting a general supervision over the trust properties and their management and the checking of accounts. But if they detect a thorough mismanagement and misappropriation of trust properties then it should be their duty to interfere and to file a suit, if necessary, to oust them from their office of trusteeship.

"Now, Sir, the change in the office of a member of a committee from the life-period to a restricted period of five years is a right departure from the original Act. So many vagaries now prevalent will be checked hereafter by this limitation of the term of office. Sir, the right of directing surplus funds to be spent on purposes other than those intended originally should, in my opinion, be vested in the executive Government rather than in the civil courts, as is contemplated by the present Bill; and, in this, the Government should be advised by a committee as to how to spend the surplus funds. Sir, it is not clearly stated why the City of Madras, which is full of Hindu temples and mosques, and, consequently, full of religious endowments, should be excluded from the operation of this Bill. Sir, there are also many clauses in the Bill which require some modifications and which I leave to the Select Committee to shape as best as possible.

[Mr. R. Appaswami Nayudu] [18th December 1922]

"I have no more to add except that if this Bill should be passed into law and find a place in the statute book, His Excellency Lord Willingdon's régime will prove an epoch-making period in the annals of the Government of Madras. He will earn the gratitude and goodwill of the teeming millions of this country not only in his temporary sojourn in this country but also in his far off island home.

"Sir, with these few observations, I beg to support the introduction of this Bill into this Council."

Rai Bahadur T. M. NARASIMHACHARLU :—"Mr. President, Sir, I already hinted at the last meeting that the hon. the Minister for Local Self-Government was to be congratulated on his courage in bringing forward this Bill. I shall not lag behind the other Members in congratulating him.

"In the beginning, I never thought, Sir, that the provisions of the Bill would be so comprehensive as they are. What I mean to say is that sufficient time was not allowed to the people and temple authorities for putting forward their objections to the Bill. You will see, Sir, that this Bill was printed on the 4th December and published in English in the *Fort St. George Gazette* on the 5th December; it was only last week we had a vernacular copy of it. However much we, who have had an English education, intend to improve the administration of religious institutions, it is but fair that we should give ample time to the temple authorities to think over the provisions of the Bill and formulate their objections, if any. That, Sir, has not been done in this case. We are all here contemplating to legislate for institutions whom we have not yet heard. I think, Sir, that the short time that has been given to the public and to the religious institutions is really to be deplored; however it is not too late to remedy the mistake. The select committee stage will come and then, I say, Sir, with all the emphasis at my control, every one of these institutions should be allowed to come before the select committee to offer their suggestions and state their objections. We ought to do this in fairness. It is no doubt true, Sir, that in this dyarchic Government the Ministers are Hindus, who have the courage to be non-neutral in this matter. I quite appreciate that. But the claim that is made to the party is not made on any policy; it is made, unfortunately, on communal lines, and we know, Sir, as a matter of fact, that the party is not overflowing with love for the Brahmans and the Brahmanical institutions. That is why, Sir, I ask the party to give ample time to the institutions concerned. Let them at least have the satisfaction of having been heard; for we know that the Bill is going to be passed. The worst criminal is given the chance to speak; and, I say, Sir, however much the religious institutions may have abused their powers, however much they may have misappropriated the funds, and however notorious all this may be, it is but fair that we should grant them a say in the matter before we legislate for them. Therefore, Sir, let not the select committee stage be as hurried as the introduction of this Bill has been. I request the hon. the Minister for Local Self-Government to allow the institutions concerned sufficient opportunity to state their grievances, and then decide. The decision after all is in our hands. But let them have the satisfaction that they have been heard. This is the first point that I have to urge with reference to this Bill: let there be no hasty action: let everything be done calmly and deliberately.



18th December 1922] [Mr. T. M. Narāsimhaচার্ণ]

"The next point that I wish to urge is this: I never thought, Sir, that the mutts were to be included in this Bill. There is absolutely no comparison between the mutts and the temples. A mutt is something which was originally started by a saint. Every mutt was started like that. The saint started the institution and disciples followed him. The mutt is the property of the original saint and his successors, viz., the Sishyas. These, therefore, have a voice in the management of not only religious affairs but also secular ones. I wish to know on what principle, on what ground, the mutts are to be brought under the category of these provisions. Temples are not like them: they are open to all. Take, for instance, the Sankara mutt. The Visishtadwaitas have no place there. Take the Ahobila mutt; the Smarthas have no place there. Take, for instance, the several Madhwa mutts. The Visishtadwaitas and the Adwaitas have no place there, and much less we, the members of this Council, who are neither Visishtadwaitas nor Dwaitas or Adwaitas.

"There is yet another practical difficulty with regard to these mutts. Where is the mutt, Sir? Where is the Ahobila mutt? Its endowed properties are throughout India. There is a large amount of property in Gadwal in the Hyderabad State. Suppose the head of the mutt is spending that property, how are you going to control him? How is any committee in any district going to have any hold over any of these mutts? The mutt is a roaming institution. It goes from district to district. Practical difficulties come in. It is not a temple like the Tirupati temple which is fixed once for all on the Tirupati hills. Ahobila mutt started from Ahobila; but it is going from place to place, from presidency to presidency. Is this local legislation to affect the endowed properties in all parts of India? I say there are practical difficulties in the way. On principle I submit that these mutts ought to be excluded.

"Besides the Hindu mutts, the Bill aims at including the Jain mutts as well. Sir, the Jains have gone away from the Hindu religion. They have protested against Hinduism and started their own mutts. They have endowed properties on their mutts. Are you going to include Jains also under the provisions of this Act? Did we give them any opportunity to put forth their views beforehand? Was the Bill published sufficiently early so as to attract the notice of these Jains? I say, Sir, that we are going on with a hasty piece of legislation on a very vital subject. It is religion that creates most of the troubles of this world. We have noticed religious feuds and religious quarrels everywhere. Nations have lost their heads over petty religious matters. I therefore submit, Sir, that we ought not to be hasty in our legislation. I oppose the inclusion of Hindu and Jain mutts in the Bill. If we include these, we may as well include the Buddhist mutts too. Let us first try our legislation on temples. Let us see how our committees and our trustees are going to work in the case of temples. If their work is beneficial, then let us try to extend them to other institutions. These gentlemen will certainly remain in the next Council also. Let them undertake it in the next Council. Let us first start with temples. There is the crying need. If we try to embrace everything, we may not reach anything at all. So let us exclude the mutts now.

"As the hon. Member, Mr. Muttu Chettiyar, said, I see no reason why smaller institutions, the village institutions, should be excluded from the operation of this Bill. It is with these, as he said, that all troubles arise. It

[Mr. T. M. Narasimhacharlu] [18th December 1922]

is in villages that we find factions, and it is there that we should begin our experiment. There is absolutely no reason why these smaller institutions should not be included within the purview of this Bill.

"Then, Sir, there is another danger, and that is about the internal administration. The Statement of Objects and Reasons distinctly says:

The Bill also gives committees power to settle dittams and Government will have power to make rules enabling committees to control establishments and intervene in the internal administration of temples.

"I submit, Sir, that this will really be the bone of contention hereafter. The Committee will say, 'We do not want these *utchavams*; they are very costly; we need not spend so much on them; give only a small quantity of *prasadam* and not so much'. These are things which will come up in everyday working. If our Government and our Legislature are wise, let them not enter into the internal administration at all. Do not interfere with *theerthams*, with *prasadams*. Do not interfere with *Sadagopan*; do not mind whether the *padagalai ghoshti* go before or the *thengalai ghoshti* go before. These are things where even angels fear to tread. Very wisely the British Government have said, 'We have nothing to do with them; you had better err and you had better profit by your errors'. That was their policy, and I see, Sir, that that policy is after all a very good policy. But, at the same time, I do say that in the matter of using the funds—in the administrative matters—the trustees, hereditary as well as non-hereditary, abuse their powers. Rectification is needed here alone; in the internal administration we should not at all interfere.

"Then, Sir, as regards the *cypres* doctrine, it is a graft from the English law. What have we to do with the English law in connexion with our religious institutions? If it is true that souls are eternal and that the souls of the dead still exist, certainly they will be haunting you (laughter). You have only to turn the endowed properties to secular purposes, and these souls will not keep quiet: they will rise from their tombs; they will begin to haunt you: that is, your conscience will be stricken with remorse. So, Sir, let us never think of diverting the surplus funds. Consider clause 29 along with clause 33. What does clause 29 say? The Committee and the trustees have got power to interfere in the matter of expenditure; that is, they may curtail the expenditure to any extent, and Mr. Ramalinga Reddi will say, 'Curtail it as much as possible'. If you are given the power to curtail expenditure and to spend the surplus on secular purposes, the money will all be spent in the direction of social reform and not religious reform. I submit, Sir, that this *cypres* doctrine is an unhappy introduction and will give rise to much heart-burning among the masses. These are the general questions that I had to deal with.

"There are many details which I shall only touch upon. The first is: Why have not the mosques and tombs and their endowments been included in this Bill? The second is: Why has the Presidency town been omitted altogether? Is it because the legal profession in the town should thrive by a lot of litigation? As Mr. Muttu Chettiyar said, litigation should be put a stop to. There is a lot of litigation in Triplicane and Mylapore and in the Kandaswami and several other temples. Therefore, the best thing is to include the Presidency town also in the Bill.



18th December 1922] [Mr. T. M. Narasimhacharlu]

"As regards the committee members, the trustees and the president of the committee, I think a five years' term for the members is too long and that one year for the president is too short. I would suggest three years all round. Then, Sir, I find no provision requiring a trustee to be a Hindu. There is a provision which states that members of the committee and voters should be Hindus; but there is no provision which says that a trustee should be a Hindu. If this is an oversight, let it be rectified at once.

"Then the question of nomination. I think nomination ought not to be left in the hands of the Government."

The hon. DEPUTY PRESIDENT (*in the Chair*):—"May I remind the hon. Member that he has exceeded his time by five minutes?"

Rai Bahadur T. M. NARASIMHACHARLU:—"I submit this question of nomination is very knotty. Hitherto, the Government have placed all the powers of appointment in the hands of the people. It is true they have not exercised that power properly. But let the power of appointment be made to be properly exercised by placing sufficient safeguards in the way of proper election. Government should have no share in the powers of appointment; for that will give rise to a lot of difficulties."

Mr. T. SOMASUNDARA MUDALIYAR:—"Mr. President, it is with mixed feelings that I rise to speak on this Bill. As one who has been rather closely associated with the administration of some of the important religious institutions, as one who feels that religious institutions and their endowments are not, in general, properly administered, and as one who has had some considerable trouble and expense in taking such steps as are provided by law to improve the administration of some of the institutions, I shall heartily welcome any legislation that aims at improving the administration of these institutions. But there are some shortcomings in the present Bill which I shall briefly touch upon.

"The Hindus and Muhammadans of the whole of India have, since 1817, been governed by the same enactments—first, Regulation VII of 1817, and then Act XX of 1863—in the matter of their religious institutions. In the present Bill a departure has been made and a separation is effected between the Hindus and their Muhammadan brethren of this province. In the Statement of Objects and Reasons, not a word is said about this vital departure. It cannot be said that there are no important Muhammadan institutions in this Presidency; nor can it be maintained that all of them are so efficiently managed as not to require any legislation. I can only say that Government suspects that legislation on the lines now proposed will not be welcome to the Muhammadans and that it is afraid of agitation and opposition from that community. I trust the hon. the Minister will soon introduce another Bill for Muhammadan institutions as well.

"The Bill under consideration was published only less than a fortnight ago, and the general public and the persons most affected by the proposed legislation have had very little time to study and understand its provisions. During the last five or six days I have talked over the matter with a fairly good number of persons and they are opposed to most of the provisions of the Bill. Religion is a matter of faith and sentiment, and the Hindus, under which name are included various sects and communities, are behind none in their piety and religious fervour. Each sect has its own

[Mr. T. Somasundara Mudaliyar] [18th December 1922]

peculiar tenets and doctrines and Government must see that the institutions and endowments of every sect are properly administered. As far as possible, Government control and legislation ought not to extend beyond making provision for the efficient administration of properties, and any attempt to make religion and religious endowments a department of Government to be controlled by the red-tapism of the Secretariat will only create discontent among the people who are interested in the properties. The Bill, as now issued, gives scope for enormous Government interference in the matter of nomination to the Devasthanam Committee, diversion of the funds of religious institutions for secular purposes and several other things.

“Under the definition of religious endowments, mutts are included though I am not able to find in the Bill any reference to them. The authors of the Bill seem to think that mutts stand on the same footing with temples. The mutts were founded by the religious heads of various sects and were intended to be great centres of religious instruction and maintainers of large numbers of devout disciples and their guru or head. The temples in some of the important mutts are only the outcome of the consecration of idols over the graves of departed gurus, who, in their time, were regarded as saints. Doling food to the people who resort to them is one of the prime functions of all mutts, and anybody who knows anything of these mutts will agree with me in saying that they are rather charitable than religious institutions, though religion has an important place in them. The control of the Sankaracharya mutt ought not to be in the hands of an Ayyangar or a Nayudu, the Jeers of Vananamalai and Ahobilam ought not to be controlled by an Ayyar or Mudaliyar, and the Tiruvaduthurai and Dharmapuram mutts, which are intended for the propagation and advancement of the Saiva Siddhanta system of philosophy, ought not to be in the management of an Ayyar who follows the Vedanta system or an Ayyangar who is an adherent of Visistadwaitic system. Does not the Bill as presented create a revolution in such matters? A Bill which ignores such basic principles cannot be considered satisfactory, and attention should be paid to such matters in the Select Committee.

“An important feature of the Bill is the diversion of the religious funds to purposes for which State funds are given. There are a number of charitable institutions in the presidency, as, for instance, the Raja's Chatram in the Tanjore district, which have large surplus funds. It will be more appropriate if an attempt is made to divert the funds of such charities to the purposes mentioned in the Bill. These charitable institutions are as badly managed as religious institutions and are yet left scot-free, subject only to the control of the Board of Revenue under Regulation VII of 1817, which is a mere fiction, and their funds can with greater justice be diverted to secular purposes.

“Another feature of the Bill is interference with hereditary endowments. How far any supervision by a committee will improve them and how far such interference is justified, are matters on which the country have had hardly any time to think about and express an opinion.

“There ought to be one enactment like the Regulation of 1817, for both charitable and religious endowments and adequate measures should be taken for safeguarding them, after taking the opinion of the people at large. If there is any matter on which a referendum to the country is necessary, it is



18th December 1922]

[Mr. T. Somasundara Mudaliyar]

religion, and it ought not to be lightly tampered with. This Bill has been sprung on the country all of a sudden without giving the people sufficient time to express their opinion, but I trust due regard will be given to such opinion and to popular feeling in the Bill before it is finally put before this Council by the Select Committee."

Mr. K. PRABHAKARAN TAMPAN:—"I wish to make a few remarks on the Bill under consideration. I may at once say that I speak for Malabar and Malabar only. We have in Malabar what are called private and public temples. Some of them are located in the family precincts of the endowers. Though they are temples intended for the worship of family deities, we have been allowing our tenants and dependants to worship there. I was glad to hear from the hon. the Minister that the Bill altogether excludes such temples, but the definition as it stands in the Bill is not clear. I wish to impress upon the House that under any circumstances private temples in Malabar should not be brought under the operation of this Bill. If it is done, I am afraid, it will be a gross abuse of the powers of the Legislature.

"Malabar has got peculiar social and religious customs. In fact, everything connected with Malabar is peculiar (laughter), and almost all the measures introduced before this Council unfortunately are not quite suited to the conditions of Malabar. I am afraid, in course of time, if things continue at this rate, we, Malabar representatives shall have to press for a separate legislature for Malabar (hear, hear). We form such a small minority in this Council.

"So far as public endowments are concerned, we also have got hereditary as well as non-hereditary trustees. Well, I think that the provisions of the Bill will not be suitable to Malabar. The very existence of the committee as contemplated, may be very undesirable for several reasons. The Bill provides that committees should be elected by voters whose qualifications have been laid down without regard to the classes of the people who are entitled to worship in the temples. For instance, I may point out the case of two important temples; one is the Guruvayur temple, and the other is the Tiruvangad temple at Tellicherry. In these two places the Tiyyas form a major portion of the population and will naturally become voters under this Bill. Thus it will be very easy for them to get into the committees and into the temples. Now, however desirable social reform may be, this is not the way in which social reform should begin. The vast majority of our people are orthodox, and they have got to be educated well enough before they can be expected to embark on social reform. Supposing the Tiyyas get into a committee, they may even dispense with the services of the Brahman *pujari*. Of course there is section 42 of the Bill which provides that old usages and customs should be respected. But that is not a sufficient safeguard. Supposing they eject a *pujari*, and put in a Tiyya in his place, then a suit will have to be instituted to invalidate the action and until the remedy is effected, what is to happen? That is one aspect in the Bill which, I hope, the framer of the Bill will consider and amend accordingly.

"As regards non-hereditary trustees also, I do not think the Bill is sufficient. Of course, there is a dire necessity for a Bill of this sort in Malabar also, as I know there are some persons who abuse their power and there are cases in which temple properties are very badly mismanaged. I do admit that fact,

[Mr. K. Prabhakaran Tampan]

[18th December 1922]

There are temples which have more than half a dozen trustees and they fight with each other, and as a result, the affairs of the temple are mismanaged. The provisions of the Bill are not sufficient and clear for the purpose.

"I wish also to say something about the diversion of religious funds. I am afraid if this Bill is passed into law, it will be subversive of the freedom and sanctity of making religious bequests. If I set apart a certain property for a specified purpose and if the income of such property is going to be diverted to other uses, I shall be very loth to make any endowments at all. If you propose to utilise these funds for educational and medical purposes, that will become another source of foreign exploitation. If we carefully look into the way in which funds are expended for educational purposes, we shall find that a large proportion of these funds goes to fill the pockets of Macmillan and other European booksellers. Similarly, a great portion of the money that is set apart for medical relief goes to foreign manufactures of drugs. That is what will take place if these funds are diverted to medical purposes.

"There is yet another cause for complaint in Malabar about which no provision has been made in this Bill. There are some endowments the trustees of which reside in the neighbouring States of Cochin and Travancore. There are certain temples whose properties are situated in Malabar but whose trustees reside in the Cochin State. No provision has been made to bring in such endowments within the scope of this Bill.

"I hope that the hon. the Minister will take all these things into consideration and either exclude Malabar altogether from the operation of this Bill, or make provisions on the lines I have indicated."

Mr. M. RATNASWAMI:—"Mr. President, Sir, an explanation is perhaps due from me for intervening in this debate. It may be asked why a Christian, and a Catholic too, has anything to do with a measure concerning the Hindu Religious Endowments. That this objection is not a fanciful objection was brought home to me as I was returning to the chamber after lunch, when a Member of this House asked me what I was doing in this gallery to-day and what on earth I had to do with the Hindu Religious Endowments Bill. It is with a view to justifying my position in this debate, that I want to offer a few remarks.

"First of all, Sir, I want to protest against this inorganic and unparliamentary view of the constitution of this Council. If the objection of my hon. friend were to be pressed to its logical conclusion, then very few of us would have a right to intervene in most of the debates that take place in this Council. As a Member of this Council I have a right to speak upon all questions that are brought before it. It is the fault of those that allow these questions to be brought before this Council, if I speak upon a question like this. The principle of State interference is by no means a new matter and it is not introduced into this Council by this Bill for the first time. In the absence of any organisation within Hinduism itself for the reform of Hindu institutions, the State has been allowed by Hindu society itself to interfere with religious institutions and religious endowments. State interference with Hindu endowments is as old as the Bombay Regulation No. 17 of 1827 which allowed Collectors powers of visitation in connexion with Hindu



18th December 1922]

[Mr. M. Ratnaswami]

religious institutions, and Act XX of 1863 also enunciates this principle of State interference with religious endowments. My hon. friend, Mr. Ramachandra Rao, said that this Bill was going against the principle of Act XX of 1863 and that while the Act of 1863 divested Government of its jurisdiction and powers over Hindu religious institutions, this Bill asserted the principle of Government intervention in regard to these religious institutions. But I may point out that a Government which is allowed the right of divesting itself of certain powers has certainly the right to reinvest itself with those powers. The wooden horse of State intervention was already introduced. He also made much of the fact that we are living under party Government, and he wanted to exclude the influence of party Government from the administration of the Hindu religious institutions. Now, this again would lead to a number of logical and constitutional absurdities because if party Government is a bad thing for religious institutions, it must be a bad thing for general administration also. Then we should not have party Government in the matter of police administration, nor in the matter of the administration of sanitation. Mr. Ramachandra Rao recognises that party Government has come to stay in this country. If party Government has come to stay, then it must be allowed to operate also in regard to religious institutions. I may also be allowed to point out that what was good enough with the bad old bureaucratic Government ought to be good enough also with the popular and elected Ministry of the type we have got. If an Indian bureaucracy was allowed to intervene in regard to the administration of Hindu religious institutions, I cannot for the life of me see why a popular elected Ministry should not have that right (hear, hear). As I have pointed out already the principle of State interference in these matters has already been allowed and it is too late in the day to go back upon it. Having swallowed the camel of State interference in regard to religious institutions, I cannot see how Mr. Ramachandra Rao can strain at the gnat of Government nomination. He objected to Government being allowed to nominate members to these committees of supervision.

"Then my friend Mr. Narasimhacharlu wanted to frighten the hon. the Minister for Local Self-Government and startled. . . ."

Rai Bahadur T. M. NARASIMHACHARLU :—"I did not want to frighten the Minister, Sir."

MR. M. RATNASWAMI :—"The hon. Member was responsible for his intentions but not for the results of his intentions. Mr. Narasimhacharlu, as I was saying, Sir, tried to frighten us by a weird prophecy of a nightmare of ghosts haunting all those who are so imprudent as to support this Bill. Well, the ghosts of Mr. Narasimhacharlu's imagination have had their chances since the year 1863 of frightening all those who supported the principle of State interference in regard to religious institutions, and I think that my hon. friend the Minister for Local Self-Government might take heart from the fact that these ghosts have been harmless for all these years and I hope he will not be frightened out of this Bill by the weird prophecy of Mr. Narasimhacharlu."

"When I came to the House this morning, I expected a good deal of opposition to this Bill. But the absence of opposition is one of the striking features of to-day. If I may say so, the hon. the Minister for Local Self-Government and the supporters of this Bill to my mind are somewhat in the

[Mr. M. Ratnaswami]

[18th December 1922]

position of Don Quixote and his faithful servant who went out to fight an army which afterwards turned out to be a phantom army. There was Don Quixote and his servant fully armed and with spears ready to charge an army which did not exist.

“But I should like to offer some criticism, if not opposition, to this Bill. I am afraid the powers of application in regard to the use of the surplus funds in religious endowments are much too wide. I can understand charitable object, allied to religious purposes, being benefited under the provisions of this Bill; but I cannot, for the life of me, see how water-supply—especially the bad kind of water-supply we are getting in India—and drainage should be benefited from the surplus funds of religious institutions. This principle, if we allow it to get into the Act, will lead, I am afraid, to the extravagance and irresponsibility of local authorities and even of the provincial legislature. It is the duty of local authorities and of provincial legislatures to provide for such purposes as water-supply and drainage by means of taxation; and, surely, they should not take refuge from the consequences of their sins of omission and commission in legacies and bequests left by people who were absolutely innocent of water-supply and drainage.

“Then also I do not like the intervention of the Collector in regard to the adjudication of the suits under this Bill. My hope is that as time goes on the Collector in India will be reduced to the position which he holds in England of being merely a bill collector on behalf of the Government. We are going to separate the judicial functions from the executive functions, and, in course of time, I think the Collector will have nothing to do but to collect revenue. I also object to the intervention of the ordinary courts of law in regard to the adjudication of the suits brought under the Act. I should very much like a non-official body specially elected for the purpose, like the Charity Commissioners of England, to be given the authority to adjudicate in these suits. Litigation is the national pastime of our country, and allowing civil courts jurisdiction in these matters will naturally tend to strengthen that tendency to litigation which it should be the object of true statesmanship to discourage.

“I welcome this Bill, Sir, as an attempt to reduce the power and the strength of the dead hand upon Hindu society. There is probably no country in the world in which the clutch of the dead hand is so deadly and so all-embracing as India. Our whole society, our customs, our usages are governed by the ideas of our ancestors. It is because the Hindu Religious Endowments Bill, introduced by the hon. the Minister for Local Self-Government, is an attempt to reduce the strength and power of this dead hand which has been clutching the throat of Hindu society for so many centuries, and it is because this Bill hopes to set free Hindu society, in the interests of liberty and progress, that I offer my whole-hearted support to it.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—“Mr. President, I am very glad that I can now congratulate the hon. the Minister for Local Self-Government both on the excellent Bill he has been able to bring forward before this Council and on the reception it has been able to obtain in this Council. Soon after the Act of 1863 was passed, difficulties were found in the management of the trusts, and it was recognized that the Act did not provide sufficient safeguards for the proper management of the trusts, and a



18th December 1922] [Mr. T. A. Ramalinga Chettiyar]

lot of ruinous litigation followed when mismanagement had been carried too far. As has been said, several attempts have been made from 1870 onwards for introducing measures for improving the management of these religious institutions. But, so far, probably due to the strength of the 'dead hand' as Professor Ratnaswami put it, we have not been able to do much. The attitude of the Government, which thought that it should have no hand whatever in religious endowments or their management, was to a very large extent responsible for the apathy that existed and for the delay in securing the proper remedies in this very urgent matter. Well, Sir, the reception accorded to this Bill in this House will show how urgent and how necessary it is.

"This present measure, Sir, really introduces several improvements on the old Act. The first one is the bettering of the management of these institutions. On this improvement there has been practically no criticism in this House except as regards the principle of the nomination of a portion of the committee. The second improvement consists, Sir, in bringing the hereditary endowments under the Bill. Under the old Act only the non-hereditary endowments were controlled and placed under committees. Now, for the first time, we are trying to bring in the hereditary endowments under an Act. These hereditary endowments, as drawn in the Bill, form two distinct categories. Under the first category may be included all endowments of a purely religious nature which are under zamindars and people in the position of trustees. The second class of these institutions embrace the mutts which are under religious heads. So far as the first class of hereditary trusts is concerned, there has not been much criticism. It has been agreed that these may be brought under the Bill. I may at once say that the interference that is proposed in the Bill with regard to the hereditary endowments is not of a far-reaching character. All that is laid down about them is that they will be audited and inspected by the President of the Committee; that is all. Otherwise they stand where they were. So, Sir, with reference to the hereditary endowments of the first class there has been practically no criticism whatever.

"But as regards the bringing in of the mutts under this Bill, there have been criticisms of different sorts. Well, Sir, it has been said that mutts are under religious heads who command great respect from the disciples and that it will be really degrading to these heads of mutts to be controlled by committees. That was one position taken. The second kind of opposition was that these mutts belonged to different religious orders, and as such they could not be controlled by a general committee. These were the main objections. Sir, if you go into the history of most of these mutts it will be seen that the mutts have really grown and that they did not exist in their present form from the beginning or for many centuries. At the start there is a saint who propagates a new set of doctrines or gives life to an old set. He forms a mutt, and he is accepted as the head of a sect. Then a number of disciples give him money for propagating the new doctrines, and, when he dies he ordinarily leaves the money to a disciple of his. When the disciple succeeds he does not command the same respect as the original founder, but the fact of his occupying the place held by his predecessor gives him a prestige, and that prestige brings in more endowments of which he is merely a trustee. It is because there is a definite institution to take care of the endowments, these additional trusts come in.

[Mr. T. A. Ramalinga Chettiyar] [18th December 1922]

Sir, the history of several institutions, that have been before the courts here in India and before the Privy Council, and the law reports of several cases only indicate the mismanagement of these mutts. My friend, Mr. Narasimhacharlu referred to the souls of those dead men who endowed these mutts. Well, I should like to ask him to imagine what those souls are now thinking about the gross mismanagement of the large endowments made sometimes for certain religious purposes and sometimes for general public purposes ('hear, hear'), whether those souls are now occupying themselves in counting how much of the funds are utilized for good purposes not indicated by them and how much for purposes which nobody will think of. The state in which some of the mutts in the South are is well known to the House. Well, Sir, after all, the only interference we are providing with reference to these mutts is in regard to audit and inspection by the President of the Committee. These are the two things which we are introducing. Is it too much to say that a number of trusts, which have been created in connexion with these mutts, not because they are given absolutely to persons in charge of the mutts but because such a head of a mutt is a convenient person to whom a trust can be attached, are the means by which the mutts have grown, and is it not fair, Sir, to allow at least the minimum amount of interference that is contemplated in this Bill?

"Well, Sir, with reference to the fear that the religious observances and things of that sort may be affected, I shall only draw the attention of my friends to clauses 42 and 43 of the Bill. These clauses provide for safeguarding the interests of the mutts as well as those of the temples. The committees can have absolutely nothing to do with the internal management of religious observances which will continue as usual. There are specific provisions in the Bill against interference, with the usages and customs of the institutions and such a fear need not at all be entertained. It has been pointed out by one member that at the present moment there are several districts in which there is one committee supervising the work of both Saivite and Vaishnavite temples. It has not been said that it was working badly, and it has not been stated that the effect of having both Saivites and Vaishnavites in the committee led to any difficulties in the management of Saivite and Vaishnavite temples. The extent of interference in the administrative affairs of the endowments provided in the Bill is about the minimum or very little. I beg to submit that the reasons urged against it cannot be considered to go very far against the provisions embodied in the Bill.

"Sir, the third main principle underlying the Bill is the so-called diversion of the funds. No doubt, it is an attempt to divert the funds of the institutions for expenditure outside their present scope. But we have not so far considered religion and learning in relation to one another. Most of our temples have in fact been places of great learning, and institutions of learning have been supported by them in every way. Even in the temples of the south, there are offices attached which show the part they played in the advancement of learning, and the mutts, it is very well known, were as much seats of learning as religious institutions and there have been many chairs of even secular learning attached to such institutions. Meenakshi Sundaram Pillai, the great Tamil scholar of the last century has been one of the pandits attached to the Tiruvadudurai mutt. Learned men in fact vied with each other to get in as mutt pandits. I do not really think that spending a portion of the surplus—I say surplus because ample provision has been made in the Bill to provide for all the necessary expenditure of the



18th December 1922] [Mr. T. A. Ramalinga Chettiyar]

institutions, and it is only the excess fund available that we mean dealing with—for purposes of education is not really an object different from the original intentions of the endowers of the funds. So, I beg to submit, it is not a real diversion.

“Then, taking the other provision for providing for the sanitary arrangements, etc., I do admit that the wording is very wide. I take it that it is the water-supply, or the medical relief of the places where the endowment is located that is thought of, and I think it is that place that is sought to be given the relief. In my view, the expenditure in connexion with big places of pilgrimage, is one of the liabilities which these religious endowments ought to bear. Taking, for instance, places like Tirupati or Palani, there are times when cholera and other diseases break up, and it is mainly due to the fact that people resort to these places in large numbers. Is it not then the duty of the temple to provide for the safeguards in respect of the health of the people of the locality and towards the sanitation of the place? After all it is also for the benefit of the large number of devotees who visit the place, and is it not proper that the funds contributed by the devotees might be made use of for the sanitation, etc., of the locality? Is it fair that the municipality or the local board should be asked to incur the expenditure in these directions which have been necessitated mainly owing to the pilgrims resorting to such places? I do not think it is fair to expect the ordinary municipality to pay the extra expenditure, and in most cases it cannot afford it. So the provision made is not at all a real diversion of the funds of the temple, and in that view I support it very heartily. I may also state that this is not a new thing at all. Ever since the year 1820, the matter has been in correspondence between the Madras Government and the India Government and the Board of Directors.”

The hon. the DEPUTY PRESIDENT :—“It is high time the hon. Member winds up his speech. There are other hon. Members who are anxiously waiting to speak on the Bill. I hope he will finish his speech in a minute or two.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“Sir, in 1835 the question was decided by the Government of India in their despatch which stated that such objects as the establishment of schools and construction of roads and bridges were within the scope of the gift, and whatever surpluses were available might be utilised for those objects. That was in 1835.

“There is only one other matter I should like to refer to. There have been many suggestions made towards the improvement of the Bill, and one such suggestion was for the appointment of Charity Commissioners. If they are appointed, probably they can deal with questions of hereditary trustees, etc., and can serve as a court of appeal against the orders of the committee. But that is a matter for the Select Committee to consider.”

Rao Bahadur K. GOPALAKRISHNAYYA :—“Sir, in view of the meeting at the Victoria Public Hall to be presided over by the hon. Sir Frederick Whyte at 5 p.m. to-day, may I suggest that the House may now adjourn for the day?”

The House having assented to the suggestion, the Deputy President adjourned the House, to meet again at 11 a.m. to-morrow.

L. D. SWAMIKANNU,  
Secretary to the Legislative Council.